

# TO EXAMINE RECENT FAILURE TO PROTECT CHILD SAFETY

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## HEARING BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES OF THE COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTH CONGRESS FIRST SESSION

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NOVEMBER 6, 2003

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**Serial No. 108-28**

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CHILD SAFETY**

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**THURSDAY, NOVEMBER 6, 2003**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON HUMAN RESOURCES,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room 1100, Longworth House Office Building, Hon. Wally Herger (Chairman of the Subcommittee) presiding.  
[The advisory announcing the hearing follows:]

# ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

## SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE  
October 30, 2003  
No. HR-5

CONTACT: (202) 225-1025

### **Herger Announces Hearing to Examine Recent Failure to Protect Child Safety**

Congressman Wally Herger (R-CA), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing to examine a recent failure to protect child safety. **The hearing will take place on Thursday, November 6, 2003, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. Witnesses will include State and local officials and outside experts familiar with the recent high-profile child abuse case uncovered in New Jersey involving several boys who were starved by their adoptive parents. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

#### **BACKGROUND:**

Recent news accounts documented cases of shocking abuse and neglect of children adopted by a family in New Jersey (see <http://www.nytimes.com/2003/10/27/nyregion/27JERS.html>). Similar stories have been written about cases in other States involving the death or abuse of children involved with the child welfare system. Federal taxpayers provided States \$3.1 billion in 2002 to support children in foster care and adoptive settings, and \$2.8 billion more in administrative funding for States and localities to use to ensure the safety of vulnerable children.

In announcing the hearing, Chairman Herger stated, "It is hard to imagine how adults could intentionally starve children. It is also hard to accept the grim reality that we as taxpayers subsidized their terrible neglect to the tune of tens of thousands of dollars. This hearing seeks to expose how these children's abuse went unnoticed so that we can work to prevent other children from enduring such horrible abuse."

#### **FOCUS OF THE HEARING:**

The hearing will focus on: (1) what happened to the children starved in the New Jersey case, (2) how their years of abuse escaped the notice of child welfare workers and others in the community, and (3) what Federal and State officials can do to prevent the recurrence of such horrific acts in New Jersey and other States.

#### **DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

**Please Note:** Due to the change in House mail policy, any person or organization wishing to submit a written statement for the printed record of the hearing should send it electronically to [hearingclerks.waysandmeans@mail.house.gov](mailto:hearingclerks.waysandmeans@mail.house.gov), along with a fax copy to (202) 225-2610, by the close of business, Thursday, November 20, 2003.

Those filing written statements who wish to have their statements distributed to the press and interested public at the hearing should deliver their 200 copies to the new Congressional Courier Acceptance Site at the location of 2nd and D Streets, N.E., at least 48 hours prior to the hearing date. **Please ensure that you have the address of the Subcommittee on Human Resources, Room B-317 Rayburn House Office Building, on your package, and contact the staff of the Subcommittee at (202) 225-1025 of its impending arrival.** When a couriered item arrives at this facility, it will be opened, screened and then delivered to the Subcommittee office, within one of the following time frames: (1) expected or confirmed deliveries will be delivered in approximately 2 to 3 hours, or, (2) unexpected items, or items not approved by the Subcommittee office, will be delivered the morning of the next business day. The U.S. Capitol Police will refuse all non-governmental courier deliveries to all House Office Buildings.

#### **FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. Due to the change in House mail policy, all statements and any accompanying exhibits for printing must be submitted electronically to *hearingclerks.waysandmeans@mail.house.gov*, along with a fax copy to (202) 225-2610, in Word Perfect or MS Word format and MUST NOT exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Any statements must include a list of all clients, persons, or organizations on whose behalf the witness appears. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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Chairman HERGER. This Subcommittee will come to order. Good morning, and I welcome all our guests here today. I am pleased to see that we have such an interested audience today. Please remember that you are our guests and interruptions will not be tolerated. Those who might disrupt this important hearing will be asked to leave. I hope this will not be a problem, but I want to make sure everyone understands the ground rules before we get under way.

Today's hearing covers a child welfare tragedy in which four boys suffered from apparent starvation while under the care of their adoptive parents. The oldest, at age 19 and just 45 pounds when found, was rooting through a neighbor's trash for food. The other boys, age 9, 10, and 14, weighed about a third of what is typical for their ages. This tragedy unfolded in the New Jersey town of Collingswood, a community in suburban Philadelphia, but it might have happened anywhere.

Unfortunately, these cases too often occur despite the best efforts of thousands of hard-working caseworkers, caring foster and adoptive parents, and those of us here today who want the very best for these vulnerable children.

I believe I speak for us all when I say we are deeply concerned about the Jackson boys and any other children like them suffering abuse. Our hearts go out to them, and we hope and pray that they can overcome this tragedy.

Nearly every one of our States has witnessed high-profile tragedies in which vulnerable children have been horrifically abused, neglected, and even killed. Several features of this particular case demand a close review of whether Federal and State protections designed to prevent such tragedies are working. Based on what we have learned to this point, they were not working in the case of the four Jackson boys.

As representatives of Federal taxpayers, we oversee the billions of dollars provided to States for maintenance payments to foster and adoptive families. In this case, approximately \$28,000 was paid last year alone to care for the children in this family.

Congress also oversees Federal funds used to administer child welfare programs in the States. Sadly, in this case, these funds were not put to the good purpose Congress intended. These taxpayer dollars were not used to better the lives of children in need of a good home. Instead, it appears these funds subsidized appalling neglect.

This case is about a lot more than Federal funds, so we have asked a panel of local experts and officials familiar with this specific case, as well as New Jersey's recent efforts to prevent such tragedies, to help us answer some very basic questions: what happened, what should have happened to prevent or at least detect such abuse, and how can we ensure other children do not suffer a fate similar to these four innocent boys?

Joining us today are individuals representing the adoptive parents, New Jersey's child welfare agency, and the caseworkers involved in this case as well as other local officials. We also will hear from experts monitoring New Jersey's efforts to reform its child welfare programs following the death of a child earlier this year. This pattern of tragedy and the fact that caseworkers entered the Jackson's home literally dozens of times in the past several years without taking action are key reasons for today's hearings.

I want to thank my Democrat colleague, Mr. Cardin, for his help in putting this hearing together. Mr. Cardin and I have worked together in recent weeks to pass legislation promoting adoption, continuing our record of cooperation in this important area for children. Today, there are no Democrat or Republican witnesses because our purpose is simply to get the facts. This is the only way we can make an informed judgment about whether changes are needed.

Subsequent hearings, including one a week from today, will probe more deeply into the policy implications of this case for the Nation. For example, we will review efforts in all States to monitor foster and adoptive children as well as ask broader questions related to how the Federal Government can help State and local officials across the country prevent such horrific cases of abuse.



As this suggests, our hearing today marks a continuation, not an end to our efforts to protect children. Based on just what we know so far about this tragic case, there is a lot of work ahead.

Without objection, each Member will have the opportunity to submit a written statement and have it included in the record at this point. Mr. Cardin, would you like to make an opening statement?

[The opening statement of Chairman Herger follows:]

**Opening Statement of the Honorable Wally Herger, Chairman, and a Representative in Congress from the State of California**

Good morning, and welcome to all our guests today.

Today's hearing covers a child welfare tragedy in which four boys suffered from apparent starvation while under the care of their adoptive parents. The oldest, at age 19 and just 45 pounds when found, was rooting through a neighbor's trash for food. The other boys, ages 9, 10 and 14, weighed about a third of what is typical for their ages.

This tragedy unfolded in the New Jersey town of Collingswood, a community in suburban Philadelphia. But it might have happened anywhere. Unfortunately, these cases too often occur despite the best efforts of thousands of hard-working caseworkers, caring foster and adoptive parents and those of us here today who want the very best for these vulnerable children.

All of us here today are concerned about these boys, and any other children like them suffering abuse. Our hearts go out to them, and we hope and pray that they can overcome this tragedy.

Nearly every one of our States has witnessed high-profile tragedies in which vulnerable children have been horrifically abused, neglected and even killed.

But several features of this case demand a close review of whether Federal and State protections designed to prevent such tragedies are working. Based on what we know so far, they are not.

As representatives of Federal taxpayers, we oversee the billions of dollars provided to States for maintenance payments to foster and adoptive families. In this case, apparently \$28,000 was paid last year alone to care for the children in this family.

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But this case is about a lot more than Federal funds.

So we have asked a panel of local experts and officials familiar with this specific case, as well as New Jersey's recent efforts to prevent such tragedies, to help us answer some very basic questions:

What happened?

What should have happened to prevent—or at least detect—such abuse?

And, how can we ensure other children do not suffer a similar fate as these four innocent boys?

Joining us today are individuals representing New Jersey's child welfare agency, the caseworkers involved in this case, the adoptive parents and the local community. We also will hear from experts monitoring New Jersey's efforts to reform its child welfare programs following the death of a child earlier this year. This pattern of tragedy, and the fact that caseworkers entered this home literally dozens of times in the past several years without taking action, are key reasons for today's hearing.

I want to especially thank my Democrat colleague Mr. Cardin for his help in putting this hearing together.

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As this suggests, our hearing today marks a continuation, not an end, to our efforts to protect children. Based on just what we know so far about this tragic case, there is a lot of work ahead.

Mr. Cardin, would you like to make an opening statement?

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Mr. CARDIN. Let me thank Chairman Herger for holding this very important hearing, and I thank you for your concern and working together, as you said, not as Democrats or Republicans but together to deal with America's most vulnerable children.

I also want to acknowledge our colleagues that are here. I note that Don Payne from New Jersey has joined us, Mr. Andrews, Bill Pascrell, and Mike Ferguson. We appreciate all your concerns on this issue and your participation in today's hearing.

Mr. Chairman, my staff has shown me a photograph of the Jackson family, and you are not going to be able to see it from here, but I think particularly the picture of Bruce will haunt me for some time. It should shock all of us what has happened to four children who were adopted to the same family in New Jersey: Bruce, Michael, Tyrone, and Keith. Their total weight was 134 pounds for the four children. They ranged in age from 9 to 19.

I know that we are all asking questions how this happened, but one thing we should be doing is asking how can we be motivated into action to make sure that we provide more help and greater tools to deal with children who are very, very vulnerable in our society today. The first question, of course, is how did these boys become so malnourished.

Now, the county prosecutor has charged the couple who adopted them with aggravated assault and child endangerment, saying they intentionally starved the children. The couple have indicated that the children had eating disorders, but that is hard to balance with the fact that once the children were removed from the family, they seemed to have gained weight. This indicates that something could have been done a lot earlier in regards to these children.

The next big question is how did the State agency charged with protecting the children fail to help these boys, even when a caseworker was routinely visiting the home? You would think that we would have picked up these issues earlier and been able to act on this case at an earlier time. Unfortunately, the boys' circumstances were not discovered until one of them was found looking for food in the neighbor's trash.

The final question this panel should be asking is what implications does the New Jersey case present for our Nation's child welfare system. For example, one issue raised by this case is how vulnerable certain children can be if they do not go to school or have regular medical checkups. If these boys would have interacted with a broader group of adults earlier, we may have been able to catch this matter at an earlier stage.

One of my major concerns is whether we are providing adequate support for our child welfare system. We know that turnover among caseworkers is very rapid. We are not able to maintain experienced caseworkers. We do not pay our caseworkers enough. Their caseload is way too high for them to effectively be able to monitor the families they are responsible for. All of that calls upon

us as Federal policymakers to do something about our child welfare system. The U.S. General Accounting Office has told us that low salaries, high caseload, and insufficient training has led to some very high turnover rates for child welfare caseworkers throughout the Nation.

Now, Mr. Chairman, I know that the New Jersey case suggests that we have a problem, but it may not just be in New Jersey. In fact, I think it is systematic around the Nation that we have to be doing a better job in our work. We know that there may very well have been negligence involved in this case, but the environment in which caseworkers work in has a direct impact on how effective they can be in our child welfare system.

So, I hope that this hearing will help us in plotting a strategy to try to deal with the broader issue, not just one family's circumstance, but the broader issue throughout the entire system.

Today's hearing focuses on alleged abuse in the adoptive home, but we have also heard enough stories of abuse in birth families and in foster care to know that the whole system needs to be improved. I look forward to working with you as we sort through this circumstance to plot a strategy to help America's children. Thank you, Mr. Chairman.

[The opening statement of Mr. Cardin follows:]

**Opening Statement of the Honorable Benjamin L. Cardin, a Representative in Congress from the State of Maryland**

Mr. Chairman, we are confronted with some very troubling questions today regarding four children who were adopted into the same home—Bruce, Michael, Tyronne, and Keith. These boys, who range in age from 9 to 19, reportedly had a *combined* total weight of 134 pounds when they were removed from their home. Not one of them weighed more than 50 pounds. The thought of these boys slowly wasting away is something that should shock and haunt all of us.

The first question, of course, is how did these boys become so malnourished. The local county prosecutor has charged the couple who adopted them with aggravated assault and child endangerment, saying they intentionally starved the children. The couple has said the boys' malnourishment was caused by eating disorders. This declaration, however, does not seem to account for the fact that all of the kids have reportedly gained significant weight since being removed from their home.

The next big question is how did the State agency charged with protecting children fail to help these boys, even when a caseworker was routinely visiting their home. Although these visits were focused on a foster child in the same house, they should have revealed obvious signs of starvation in the four boys. After all, the foster child was being considered for adoption, which should have led to an assessment of the children already in the home. Unfortunately, the boys' circumstances were not discovered until one of them was found looking for food in the neighbor's trash.

The final question this panel should be asking is—what implications does the New Jersey case present for our Nation's child welfare system. For example, one issue raised by this case is how vulnerable certain kids can be if they do not go to school or have regular medical checkups. If these boys had more interaction with a broader group of adults who had experience in assessing the welfare of children, their situation would have been detected much sooner. Of course, this reality has to be balanced against our goal of treating adoptive families like any other family.

The plight of these four boys also raises much broader issues that affect the safety of all children in the child welfare system, regardless of whether they are in birth, foster or adoptive homes. One of the most significant of these concerns is the apparent inability of the child welfare system to retain qualified and experienced caseworkers.

The General Accounting Office has told us that low salaries, high caseloads and insufficient training have led to very high turnover rates for child welfare caseworkers throughout the Nation. Most of those on the job now have less than two years experience—a low threshold from which to make potentially life and death decisions.

News accounts in the New Jersey case suggest the relative lack of experience for the lead caseworker, coupled with an excessive caseload, may have been part of the problem. I am certainly not ruling out negligence, but I am suggesting that certain environments are more likely to produce both innocent errors and a dereliction of duty.

Mr. Chairman, there are other systemic problems that I do not have time to examine in detail now, such as the inadequate response to the link between substance abuse and child abuse, and insufficient access to prevention activities and post-adoption services. So let me say generally that I hope this case leads us to look at the big picture, instead of hoping for a quick fix.

Today's hearing focuses on alleged abuse in an adoptive home, but we all have heard enough stories of abuse in birth families and in foster care to know that the whole system needs improvement. We can all make speeches today, but ultimately we need to step up to the plate with adequate supervision and resources to prevent future tragedies from occurring. Thank you.

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[The opening statement of Mr. Foley follows:]

**Opening Statement of the Honorable Mark Foley, a Representative in Congress from the State of Florida**

I want to start by thanking you for calling this very important—and long overdue—hearing to examine our nation's child welfare system. As someone who has worked on child protection issues throughout his career, the incident recently in New Jersey was one of the most shocking cases of state mismanagement that I have ever seen.

Over a year ago in Florida, we were rocked by the horrible news that our Department of Children and Families (DCF) could not locate several hundred children in its custody. Immediately after this story came to light, Governor Bush ordered a Blue Ribbon commission to investigate DCF's failures and to recommend ways to improve the system. Soon after the report was released DCF, under its new Secretary Jerry Regier, made acclaimed changes to his agency—now making it the model for all other states to follow.

After our terrible time last year, you would think that other states would have "woken up to smell the coffee." That states would have done a thorough review of their own systems to prevent this tragedy from ever happening again. However, we once again find ourselves with a state social service agency asleep at the wheel—with unbuckled children in the backseat and the car is about to go over the cliff.

New Jersey's Division of Youth and Family Services (DYFS) failures were catastrophic. Thirty-eight visits over several years—what more did they need to see? A 19 year old who is 4 feet tall and weighs 45 pounds . . . where were they? A 14 year old who is a little over 3 feet in height . . . again I say, where were they? The fact is, Mr. Chairman, that most Americans treat their pets better than New Jersey cared for their children.

Mr. Chairman, I expect to hear arguments today that the Division lacked funds, resources, cap caseloads—what have you. These are completely outrageous statements and do not explain the events of this case. It took nothing more than common sense to have saved these kids years ago. DYFS should have acted immediately and removed these children the first time they were there.

I know all too well that New Jersey is not alone in this tragedy. We must get to the bottom of this crisis and fix it once and for all. Excuses and reasons will not save the lives of our children—only action will.

Mr. Chairman, in that light, I would like to state that I intend to introduce a bill in the next two weeks that will give state social service agencies access to the NCIC criminal data base. As those who have worked in this area know, this resource will give field staff the ability to determine whether the guardian the child is being placed with has an out-of-state criminal record—something they don't currently have access to.

Though this is a first step towards strengthening our states ability to further protect our children, there is much more work we need to do.

I am very grateful for this opportunity to bring this issue to light and I look forward to working with you and Chairman Thomas to ensure—once and for all—that all of our nation's children are safe.

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Chairman HERGER. Thank you, Mr. Cardin. Before we move on to our testimony, I want to remind our witnesses to limit their oral statements to 5 minutes. However, without objection, all of the written testimony will be made a part of the permanent record. To begin our hearing, I would like to welcome three Members of Congress from the State of New Jersey, the Honorable Robert Andrews, the Honorable Bill Pascrell, and the Honorable Michael Ferguson. Congressman Andrews your testimony.

**STATEMENT OF THE HONORABLE ROBERT E. ANDREWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. ANDREWS. Thank you, Mr. Chairman. Good morning, Mr. Cardin, Members of the Committee. We deal with a lot of very important questions in the U.S. House of Representatives, and I know that the Members of this Committee in this room deal with very consequential matters all the time. I can't think of a more consequential or important subject that the Committee will take up ever than the issue that you are looking at today.

Thirty days ago, a young man and three little boys in southern New Jersey, in Collingswood, New Jersey, their names were not known beyond their own family, neighborhood, and friends. Today, their names are being reported in the national media, worldwide media, because of the horrific events surrounding their lack of care and what has happened to them.

I thank Mr. Cardin for mentioning in his very opening remarks the most important subject, which is the very good news that reports are that each of these four young men are making medical progress. We are thankful for that, and we hope that that continues.

This is a matter where there is one set of facts that is indisputable, there is another set of questions that is very much in dispute, and there is a third set of questions that I think we have a responsibility to take under our wing and answer. What is not in dispute is that a young man and three boys were in grave medical distress when they were discovered by the Collingswood, New Jersey Police a few days ago. As Mr. Cardin said, these four young men were shockingly underweight and in terrible, terrible condition. That is indisputable.

There is much dispute as to how they got there and whose responsibility that is. It is the responsibility of the county prosecutor, Mr. Sarubbi, in whom I have great confidence, and the court system, in which I have great confidence, to sort out the question of whose legal responsibility this terrible situation is. I am certain that the courts and the criminal justice system and the administrative law system will sort these questions out.

Frankly, it is important that the Committee know the facts, but it is even more important that the regular legal processes that deal with these children, their parents, and other people associated with this matter run its course and be dealt with properly. The Congress of the United States is not a place that decides innocence or guilt or liability or the lack thereof.

The third question is the one for which we have great responsibility, and that question is not simply how did these four young

men find themselves in such desperate straits that day, but whether we know for sure whether there are other little boys or other little girls elsewhere in America that are in the same situation as we meet this morning.

The taxpayers of the United States in the last fiscal year spent \$5.8 billion of Federal money to erect and maintain a system to look after the most vulnerable children in America. Now, I know that many people in that system are everyday heroes; moms and dads, foster moms and dads who go far beyond what is legally required of them and love those children with their whole heart and their whole soul.

It has been my experience that the vast majority of caseworkers and professionals in the child welfare system also go far beyond what is legally required of them. The clock may say they are supposed to punch out at 5 o'clock, but they do not stop caring about children at 5 o'clock. Many of them use their own time and their own money to do what needs to be done for the children under their care.

I am confident that throughout this system there are many, many good people who perform exceptionally good work every day, and I would hope that none of them would think that the purpose of this hearing is to impugn their performance or their integrity.

It is also, however, indisputable that, as these facts so sadly point out, not every child receives the benefit of such high quality care. The question that I think we need to focus on here is who is watching the watchers. Each State has a child welfare agency that is responsible for looking after children who are placed in foster care or who are under consideration for adoption, and that looking-after process involves home visitations and interviews with people who know the parents and others who were involved. It is the job of the child welfare agencies to make sure that the people entrusted with the everyday care of the children are doing their job.

It is our job to make sure that the State child welfare agencies who receive this \$5.8 billion are doing the job that we have entrusted them to do with that money. We don't know the answer to that question. What I would hope the Committee would focus on would be ways that we could improve our own oversight so that an incident like this never happens again to any child anywhere in our country.

Now, let me also say, in concluding, that these tragedies are not new to New Jersey, I am saddened to say. As my friend and colleague, Mr. Payne, can tell you, we have been rocked with horrible stories in recent months throughout our State of children forgotten, abused, and killed. I would say that the State of New Jersey did not wake up the morning after the Jackson case became news and start trying to do something about it. In fact, there has been a consistent effort over the last number of months in particular, where Governor McGreevey and the administration in New Jersey has made a concerted effort to try to make things better.

I believe you are going to hear from Mr. Kevin Ryan this morning, who is the Child Advocate who has been appointed as a result of the settlement of a Federal lawsuit against the New Jersey Child Welfare System. I think New Jersey is in the lead in this cat-

egory of bringing in an independent observer to try to make sure these things do not happen again.

I don't say these things by way of explanation for what we found in Collingswood, but I say them to say that you can be assured that in New Jersey the efforts to try to fix this reprehensible problem did not begin the day after the case of these young men became public.

Finally, let me say that I want to give some credit to the Collingswood, New Jersey Police Department here. It is the first public agency that took action when these grave facts became known. It is the very first agency that stepped forward and did something to help these boys. In our system, Mr. Chairman, that is not really the job of the police department, but the police officers who responded, responded as human beings, and they deserve our credit.

I hope, Mr. Chairman, that another hearing like this is never necessary again, but I commend you for calling it so we can collectively work together and do a much better job of supervising those to whom we are giving \$5.8 billion and, more importantly, giving the high moral responsibility of guarding those who are least able to guard themselves.

Chairman HERGER. Thank you very much, Representative Andrews, for your testimony. Representative Pascrell to testify.

**STATEMENT OF THE HONORABLE BILL PASCRELL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. PASCRELL. Thank you, Mr. Chairman, Ranking Member Cardin, and Members of the Subcommittee, my brother Donald Payne from New Jersey, Michael Ferguson, and Rob Andrews here.

I think the main reason we come down here to Washington or come over to Washington or up to Washington is to protect the most vulnerable in our society; older people, our kids, those who are infirm, and those who are disabled. I think this is a priority. I think good can come of this painful experience if we hold a mirror to ourselves. I think that is critical to this issue, to be honest about this entire situation.

As a member of the State legislature, I thought I had seen the worst in the foster care system. In 1994, foster parents Marilyn and Bruce Wylie were given custody of Yasmin Taylor, better known as Pumpkin to all of us, a medically fragile child. Pursuant to a court order later that year, the Division of Youth and Family Services (DYFS) took Yasmin from her foster parents and returned her to her biological maternal grandmother. The foster parents protested, argued that Yasmin was too sick and weak at the time. This was a child that needed immediate medical attention, Mr. Chairman. Ignoring the pleas and concerns, Yasmin was removed, and she died 2 days after she was released. It was a tragedy. It shook me, it shook my hometown of Paterson, New Jersey.

As a result of that incident, I started to really dig into what DYFS was all about. There are many good people, as Congressman Andrews just pointed out, who served there and still serve there from then. I introduced several bills, a bill that would have established an Office of Ombudsman. Who are the advocates for these children? Who advocates for them? Not just simply has oversight

responsibility but who advocates for these kids? In fact, then State Senator Jim McGreevey introduced a companion measure in the State senate, I introduced it in the State assembly.

Our bill would have created an independent office for a child advocate outside the Department of Human Services or DYFS bureaucracies. If in existence, the Wylies could have used this ombudsman as a resource. After 7 years, that concept has finally been enacted this past September by Governor McGreevey establishing the Office of Child Advocate. Kevin Ryan, the newly appointed Child Advocate, you will hear from in a few moments.

This was among many recent changes prompted by the court-enforced settlement this past summer. The settlement required an immediate safety assessment for every child in the foster care system. Of the 14,000 children in the system, the report found only 87 children where their safety was a concern, of which 31 were removed from foster homes or the facility, which brings us here today. Unfortunately, as we know, the Jackson boys were not part of the 87; in fact, not even after the caseworker visited a foster child in the same household 38 times.

As Mr. Ryan has stated, the caseworker reported that those children were all safe, despite the fact that the utilities had been turned off for the last 6 months, the kitchen doors were locked shut, and the four boys were obviously starving, quote-unquote. Whatever the reasons, whatever those may be, why the system failed to identify the abuse of these boys, we need to recognize that the same problems keep on surfacing.

One issue I believe that can be better addressed is the issue of transparency. On the Federal level and on the State level there needs to be accessibility to records. We need to know which agencies are able to go to those records, protecting privacy of course at all times, accessibility to records by those proper agencies. As I said, 7 years ago confidentiality laws protected DYFS from public scrutiny but did not protect the children.

Requiring public knowledge of child abuse and neglect investigations, as I had proposed while serving in the State legislature, is key to holding any agency accountable. While DYFS should take the lead, all social and educational services can certainly be on the same page.

I am proud that New Jersey is having incredible success in placing foster care children into permanent homes. New Jersey placed over 5,000 children in permanent homes, earning a total of \$4.5 million in adoption bonuses, which is the ninth highest nationwide over the past 4 years. I praise the Governor and his administration for taking the steps that should have been taken 7 years ago, 14 years ago, 20 years ago. I am confident these major systemwide improvements will be illustrated in the U.S. Department of Health and Human Services (HHS) Family and Child Services review due early next year, I believe it is in March. That is for New Jersey.

You know this is not just a New Jersey problem, Mr. Chairman. I am concerned about the penalties issued after the secondary Title IV-E Federal review processes. New Jersey is working through a case that is costing the State \$6 million. While I understand that HHS wants to make sure that States comply with program require-



ments, I do not believe that imposing monetary penalties will necessarily help the States improve their system.

My friend Mr. Cardin has a proposal to help the States improve their foster care systems, including funds for training. As we see the number of children in the program increase, and the State has increased its commitment 50 percent over the past 5 years, that is a tremendous number, Mr. Chairman. We need the Federal Government to be a participant in paying its share.

Mr. Cardoza has legislation for a National Commission on Foster Care. We can and must find the best models nationwide and then create incentives to encourage States to implement these best practices.

In conclusion, I urge you, Mr. Chairman, to use this hearing as the first in a series to get to the heart of the problem. I urge you to continue to work on these issues, bringing in interested Members to help in this purpose. Let us not wait until another horrific incident happens. I compliment the Committee for its oversight. I can assure you there are too many children throughout this Nation with too many needs to allow us to rest. This is a first step. I commend you, Mr. Chairman. Thank you.

[The prepared statement of Mr. Pascrell follows:]

**Statement of the Honorable Bill Pascrell, Jr., a Representative in Congress from the State of New Jersey**

Chairmen Herger, Ranking Member Cardin, Members of the Subcommittee, I thank you for inviting me to testify today.

Back when I was a member of the State assembly and the Mayor of Paterson, NJ, I thought I had seen the worst in the foster care system. In 1994, foster parents Marilyn and Bruce Wylie were given custody of Yasmin Taylor, a medically fragile child. Pursuant to a court order later that year, the Division of Youth and Family Services (DYFS) took Yasmin from her foster parents and returned her to her biological maternal grandmother. The Wylies protested the removal—argued that Yasmin was too sick and weak at the time. This was a child that needed immediate medical attention. But ignoring the pleas and concerns, Yasmin was removed. She died two days later from a virus that attacked her heart. It was a tragedy that shook my hometown of Paterson.

As a result of that incident and others, I introduced several State assembly bills to improve the foster care system in New Jersey, including a bill that would have established an Office of the Ombudsman for Abused and Neglected Children. In fact, then-State Senator James E. McGreevey introduced a companion measure in the State Senate.

Our bill would have created an independent office for a child advocate, outside the Department of Human Services or DYFS bureaucracies. If in existence, the Wylies could have used this ombudsman as a resource in its fight with DYFS. The office would serve as an advocate for abused and neglected children by receiving and investigating complaints about DYFS, and increasing coordination and collaboration among State and local agencies. After seven years that concept was finally enacted into law this past September, establishing of the Office of the Child Advocate. Kevin Ryan, who is scheduled to testify on the next panel, is that newly appointed Child Advocate.

As more and more cases began to appear in the 1990's, New Jersey focused on the staffing issue. The State hired an additional 120 employees, bringing its statewide compliance with workload standards to over 80 percent. In addition, New Jersey purchased 2,300 computers, finally bringing DYFS into the information age. The hope was that the new computers would enhance the ability of caseworkers to do their work more efficiently, thus allowing them to spend more time with troubled families. But as we know, technology and staffing alone are not enough to solve the major problems continually found at DYFS.

In January 2003, New Jersey found itself in a familiar situation with the horrific story of Faheem Williams. Only seven years old, Faheem's battered, lifeless body was found in a trunk. His half brother was suffering from starvation.

Like we as legislators do on many tough issues, only the extreme cases wake us up to the realities.

New Jersey went through the process of attempting to hire more workers. While successful on its surface, because of turnover, DYFS has had a net gain of only 60 workers, and nearly 80 vacancies remain. In addition efforts to create a computerized child welfare tracking system are in the works which would allow caseworkers to call up a complete file on a child or a family to provide a whole picture of the family. New Jersey is one of six States not to have such a system.

Many recent changes were prompted by the court-enforced settlement this past summer. The settlement required an immediate safety assessment for every child in the foster care system. The assessments were completed October 23, 2003 for more than 14,000 children in the system. The report found only 87 children where their safety was a "concern" of which 31 were removed from the foster home or facility.

Which brings us here today. Unfortunately, as we know, the Jackson boys were not part of those 87 in danger. In fact, not even after the caseworker visited a foster child in the same household 38 times. As Mr. Ryan has stated, the caseworker "reported that those children were all safe despite the fact that the utilities had been turned off for the last six months, the kitchen doors were locked shut, and the four boys were obviously starving."

Whatever the reasons are as to why the system failed to identify the abuse of these boys, we also need to recognize that the same problems keep on surfacing. One issue I believe that can be better addressed is transparency. There is no question that a certain degree of privacy is important and should certainly be respected. But requiring public knowledge of child abuse and neglect investigations—as I had proposed while serving in the Assembly—is a key to holding DYFS accountable. Ensuring transparency should also work hand in hand with coordination among agencies and other governmental institutions. While DYFS should take the lead, all social and educational services can certainly be on the same page.

Focusing on number of workers alone hasn't proven completely effective. Dedication of resources to hire new workers is important, but we also must address retention rates of workers. About 80% of workers end up leaving DYFS, limiting the experience of many staff members. This is certainly an issue to address.

I am proud that New Jersey has had incredible success in placing foster care children into permanent homes. Congress began to address the question of adoption in 1997 with the Adoption and Safe Families Act, which we just reauthorized in October. As you know, the Act provides States an incentive payment of \$4,000 per child adopted above prior year levels, as well as an additional \$2,000 on top of that for each child with special needs placed in a caring home.

New Jersey has used this program very effectively, and made permanent improvements in practices. In fact, New Jersey placed over 5,000 children in permanent homes earning a total of \$4.5 million in adoption bonuses which is the ninth highest nationwide over the last four years. In FY 2002, New Jersey received \$1,923,000 after a 13% increase rate of adoption.

We should praise Governor McGreevey and his Administration for taking these issues head on the past ten months. Their commitment to reform is commendable. I am confident these major system wide improvements will be illustrated in the HHS Family and Child Services review due early next year. But Mr. Chairman, as you know, this is not just a New Jersey problem. We have heard horror stories from Florida and other States in the past few years.

I encourage Congress—and in particular this Committee—to continue to look at the whole picture. Presently, States have campaigns to recruit foster families, but many foster families don't have support systems. After all the training they receive, when a child is finally dropped off at the household, foster parents have no one to call if something goes wrong. As a result, we find a lack of available foster families. Relationships between the caseworker and the families are not established. Right now, overworked caseworkers with limited time visit homes and miss the whole picture. The Jackson boys are an extreme case of that.

If only the caseworker had more time and a relationship with the whole family. While I do believe this was an isolated incident, if only they discovered the abuse of these boys while they were foster kids, then maybe the Jackson boys and all foster children would not be abused or neglected.

While there is no silver bullet, there are several proposed solutions and recommendations I believe that the Committee should support.

I am concerned about penalties issued after secondary IV-E reviews. New Jersey is working through a case that is costing our State a much needed \$6 million. While I understand that HHS wants to make sure that States comply with program requirements, I do not believe that imposing monetary penalties will help the States

improve their system. Rather, we should only require that they reinvest that potential disallowance back into their system improvements.

My friend Mr. Cardin has a proposal (H.R. 1534) to help the States improve their foster care systems, including funds for training. Many of our State's are in severe budgetary situations, New Jersey is no exception. As number of children increase, and the State increases its commitment 50% over the past five years, we need adequate increased funding from the Federal Government.

Mr. Cardoza of California has a proposal for a Foster Care Reform Commission. We can and must find the best models nationwide, and then create incentives to encourage States to implement these best practices in their foster care systems.

Mr. Chairman, I urge you to use this hearing as the first in a series, to get to the heart of this problem. I urge you to continue working on these issues, bringing in interested Members to help propose—and enact—solutions. Let us not wait until another horrific incident happens.

I compliment the Committee for its oversight today and encourage you to keep moving forward. There are too many children throughout this Nation, with too many needs, to allow us to rest.

We can all do better.

Thank you.

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Chairman HERGER. Thank you, very much, Representative Pascrell. Now Representative Ferguson to testify.

**STATEMENT OF THE HONORABLE MIKE FERGUSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. FERGUSON. Thank you, Mr. Chairman, and thank the Ranking Member as well for holding this important fact-finding hearing. I also want to thank my colleagues from New Jersey for their thoughtful and obviously heartfelt comments.

No one can absorb the tragedies that have befallen the children under the care and supervision of DYFS and be anything but horrified. The DYFS is perhaps the most important agency of our State government, for its duty is to protect the most vulnerable of our citizens. The DYFS has failed unimaginably in this duty.

My wife and I are parents of three young children. Like millions of parents across New Jersey, I have been both outraged at DYFS's failure to fulfill its duty and heartbroken for the children under its care.

In New Jersey just last month the DYFS program completed a review, and I want to read an article, just a very small passage from an article from the Newark Star-Ledger of an event which prompted this review which was just recently completed. This is from January 6th of this year. "The gruesome story began to unfold Saturday when a man who lives in the house searched the windowless basement for a pair of misplaced boots. When he kicked in a locked door, he discovered what he described as a 'head with hair on it,' beneath a bed and he called police. The police arrived to find the two children starved and dehydrated. Police said the children apparently had not eaten for 2 weeks. The children were not able to answer questions from detectives until yesterday. When they did, one of the two, a boy identified as Raheem Williams, 7 years old, told them, 'I have a brother I haven't seen in a while.' Police returned to the house with the Essex County Sheriff Department's cadaver dog and made the grizzly discovery in a separate

room in the basement. They found the boy's brother and his mummified body."

This event prompted the review, which was recently concluded by DYFS. Numerous recommendations were made, policies were changed, people lost their jobs, but more, much more, needs to be done. While that review focused on the death of one boy under DYFS's care in Newark, a second tragedy struck one day after this report was issued. The DYFS caseworkers say they visited a home in Collingswood 38 times in the last 4 years, and one even reported that a "very supportive environment" was in place. The truth is that that environment was ghastly. Four boys, severely malnourished, and one, a 19-year-old, weighed, as you said, 45 pounds.

The DYFS is so dysfunctional, plagued by shocking lapses of judgment, poor to nonexistent supervision, and inexperienced caseworkers, one can fairly ask can DYFS be fixed? The agency has already failed two Federal audits. The HHS regular Child and Family Services review is scheduled to begin in March. The State already has forwarded data to HHS in preparation for this review.

In the face of what can only be described as incompetence on a grand scale, I have significant questions about the validity of this data. That is why today I will be sending a letter to HHS Secretary Tommy Thompson. I will be requesting a meeting with him and our New Jersey congressional delegation to discuss the status of the data collection to date and to outline the steps HHS will be taking to ensure this Federal review is fair but thorough. I don't want a one-time meeting. I believe every member of our State's delegation must be briefed on an ongoing basis on the status of this review.

This week I have also requested meetings with the HHS Inspector General and with the U.S. General Accounting Office to discuss formal Federal investigations of DYFS. At the moment I am not calling for these investigations. Instead, I want to monitor the data collection from the State and the State's cooperation with HHS and HHS's regular review. Many of the leaders of my State, both Republicans and Democrats, have been working hard and in good faith to fundamentally reform DYFS and the manner in which it supervises its workers and oversees the children under its care. I want to allow that process to continue and I want it to be successful.

If, however, the State fails in its reforms and fails to fully cooperate in the HHS review, I will call on Federal authorities to investigate DYFS not only to ensure Federal tax dollars are spent wisely but for a far more important goal: that the horrors that our State's children live through while under this State's care never happen again.

In summary, I look forward to the testimony of the Subcommittee and to the conclusions it reaches and the recommendations you may make. No matter what State we represent, each of us has a duty to step in when an agency like DYFS fails to fulfill its duty. After all, Mr. Chairman, our children are our Nation's most precious resource. Can DYFS be fixed? It must be fixed, and it must be fixed now.

[The prepared statement of Mr. Ferguson follows:]

**Statement of the Honorable Mike Ferguson, a Representative in Congress  
from the State of New Jersey**

I want to thank Chairman Herger for holding this important fact-finding hearing. I also want to thank my colleagues from New Jersey for their thoughtful comments.

No one can absorb the tragedies that have befallen the children under the care and supervision of DYFS and be anything but horrified. DYFS is perhaps the most important agency of our state government, for its duty is to protect the most vulnerable of our citizens.

DYFS has failed unimaginably in this duty.

My wife and I are parents of three young children. Like millions of parents across New Jersey, I have been both outraged at DYFS' failure to fulfill its duty and heart-broken for the children under its care.

The state last month completed a review of DYFS. Numerous recommendations were made. Policies were changed. People lost their jobs.

But more needs to be done.

While that review focused on the death of one boy under DYFS care in Newark, a second tragedy struck one day after the report was issued.

DYFS caseworkers say they visited a home in Collingswood, New Jersey, 38 times in the last four years, and one even reported that a "very supportive environment" was in place. The truth was that the environment was ghastly; four boys were severely malnourished, and one, a 19-year-old, weighed 45 pounds.

DYFS is so dysfunctional, plagued by shocking lapses of judgment, poor to non-existent supervision and inexperienced caseworkers, one can fairly ask: Can DYFS be fixed?

The agency already has failed two federal audits. The U.S. Department of Health and Human Services' regular Child and Family Services Review is scheduled to begin in March. The state already is forwarding data to HHS in preparation for this review. In the face of what can only be described as incompetence on a grand scale, I have significant questions about the validity of that data.

That is why today I'm writing a letter to HHS Secretary Thompson. I am requesting a meeting with him and New Jersey's congressional delegation to discuss the status of the data collection to date and outline the steps HHS will take to ensure this federal review is fair but thorough. I do not want a one-time meeting; I believe every member of my state's delegation must be briefed on an ongoing basis on the status of that review.

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Many of the leaders in my state, both Republicans and Democrats, have been working hard and in good faith to fundamentally reform DYFS and the manner in which it supervises its workers and oversees the children under its care. I want to allow that process to continue, and I want it to be successful.

If, however, the State fails in its reforms and fails to fully cooperate in the HHS review, I will call on federal authorities to investigate DYFS not only to ensure Federal tax dollars are spent wisely—but for a far more important goal: that the horrors our state's children lived through while under the State's care never happen again.

I look forward to the testimony before this subcommittee and the conclusions it reaches and the recommendations it makes. No matter what state we represent, each of us has a duty to step in when an agency like DYFS fails to fulfill its duty. After all, children are our nation's most precious resource. Can DYFS be fixed? It must be fixed, and fixed now.

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Chairman HERGER. Thank you, very much, for your testimony, Representative Ferguson. Are there any questions of the Members? If not, we ask the next panel—

Mr. CARDIN. Let me just thank all three of our colleagues for their passion on the subject. We need to develop broad coalitions within the Congress to work on these issues, and we very much thank you for your commitment in these areas.

Let me just comment, Mr. Andrews, I agree with you completely the system is going to have to hold accountable those responsible for the specific actions, whether it was the family or whether it is the people from the department who failed their responsibilities. Ultimately, we have responsibilities to work together to improve the system, to make it less vulnerable for what happened, and I want to thank all three of you for your testimony.

Chairman HERGER. Thank you, and I join in thanking you for taking the time this morning.

Mr. CARDIN. If I might, Mr. Chairman, if I could yield to Mr. Payne for one moment.

Chairman HERGER. Yes, without objection.

Mr. PAYNE. Thank you very much. Let me also commend the Subcommittee for calling this very important hearing, and you can see how important my colleagues from New Jersey feel that this is. I think the testimony from Congressman Andrews, Congressman Pascrell, and Congressman Ferguson really pinpointed some of the very serious problems we have in the system.

I take particular interest, being a former schoolteacher, a former social worker, and having dealt with issues of this many decades ago when I served in those capacities. I do believe that this is going to be an issue that we have to take a look at the total parameters. I don't think this is something to point fingers at. This is something to find out how we can improve the quality of life for the most vulnerable in our society, our young.

I think a nation actually should be judged by how it treats its young and its elderly. So, issues of stability, of the system turnover rates, salaries, the whole question of training, I think these are issues that we really have to come to grips with. Home schooling. How do we ensure that home-schooled children are not in situations like this? There is a movement in New Jersey and around the country to take registered nurses out of public schools because it is felt it is too costly and that we should downgrade the registered nurse in public schools. Would that be something that should be done at this time?

I think there are a number of issues that we need to look at, and I just wanted to thank you all for calling this very important hearing. Thank you.

Mr. CARDIN. Let me thank my colleague, Mr. Payne. Mr. Chairman, I would ask unanimous consent that a statement from Mr. George Miller, Congressman from California, the Ranking Democrat on the Committee on Education and the Workforce, also be made part of our record.

[The statement of Mr. Miller follows:]

**Statement of the Honorable George Miller, a Representative in Congress  
from the State of California**

Good morning and thank you for affording me this opportunity to testify. I commend the Chairman for examining this horrendous failure to protect children.

Today you will hear about a State welfare system that allowed parents to starve their four adopted children—children who were known to the welfare system, because they lived in a home that New Jersey State welfare workers had visited on 38 occasions over the past 4 years. We will also hear about another New Jersey tragedy that occurred earlier this year. In that case, a 7-year-old boy was found dead and his two brothers were found emaciated and locked in a basement filled

with feces and rodents. Social workers had also paid multiple visits to that family investigating allegations of abuse and neglect.

New Jersey is not alone; these tragedies are symptomatic of a chronic failure of our Nation's child welfare systems to properly care for children. There are more than 550,000 children in foster care nationally, taken by States out of dangerous homes and supposedly placed in safe, nurturing environments where they will receive the services they desperately require.

The reality is very different. In recent months, the national scope of the failures has become apparent. A recent Health and Human Services report assailed California's system of care for abused and neglected children. Michigan officials recently admitted that they had lost track of 302 abused or neglected children. An audit of Maryland's child welfare system revealed that the State had lost track of some foster care children for months, failed to ensure proper health care and, in at least one case, entrusted a foster child to a sex offender.

In Milwaukee, 48% of families investigated for abuse had prior involvement with the child welfare system; in the District of Columbia, 32% of such families had been previously reported to protected services; and in Florida, at least 37 children died of abuse or neglect over the past 5 years despite having been the subject of an abuse or maltreatment complaint. Of the estimated 1,500 children annually who die of abuse and neglect, more than 40% were already known to the child welfare agencies.

Over 25 years ago, I launched an investigation into the failures of the Nation's child welfare system. For tens of thousands of children, foster care was a living horror where services were denied, placements were unsupervised, and legal rights routinely flaunted. I called it "State sponsored child abuse." And those hearings and investigations led to the enactment of the Child Welfare and Adoption Assistance Act in 1980 that required States to improve the services and accountability in their foster care programs, and to promote adoptions for children unable to return home.

Yet here we are, 23 years after the 1980 law, and in spite of additional legislative action to further the goals of child safety and well-being, far too little has changed. Today's headlines are almost carbon copies of those written over two decades ago, filled with stories of States' failures to provide services and protection to foster children.

**In the past 2 years, 32 State child welfare programs have been subjected to Federal reviews, and every single one has failed to meet national standards.**

Last November, I joined national child welfare experts and my colleagues Charles Rangel, Ben Cardin, and Pete Stark in sponsoring a Child Welfare Summit to discuss urgent problems facing child welfare services and to recommend improvements for Federal and State accountability and oversight. Following last year's Summit, I joined Representative Cardin in cosponsoring a bill that would strengthen Congress' will and commitment to protect children.

The Child Protective Services Improvement Act will include provisions designed to improve outcomes for children in foster care, address substance abuse problems, update eligibility standards, minimize multiple placements of children in foster care and move quickly to either return them to their families or find permanent adoptive homes. The bill is designed to enhance caseworker retention by providing grants to enhance social worker training, raise salaries and reduce caseloads.

Our legislation is drawn from the frontline experience of those around the country most knowledgeable about foster care and about the kinds of reforms that are needed to achieve permanency, appropriate services, and accountability. Improved services, support for caseworkers, flexibility in foster placements, and a renewed commitment to permanent homes—these are urgent goals for children and families in the child welfare system.

The Federal Government spends \$5 billion annually to protect abused children. Today's hearing cannot merely examine the failure of New Jersey officials to protect abused children. It must raise serious questions about the adequacy of Federal oversight of State child welfare programs. There are those who propose changes in the child welfare system that would diminish accountability and grant even greater latitude to the States in managing their Federally financed foster care systems. With 32 State agencies failing to meet basic standards for their foster care programs, it would be foolhardy to award States a block grant in hopes they would run their programs more responsibly than they do with the specific mandates in current law.

Instead, I urge my colleagues to consider the reforms proposed in the Child Protective Services Improvement Act. As I have said before, many of these children who are abused, and then re-abused, could have been saved had there been an adequate social services safety net to catch them. Congress only lacks the will, not the ability, to help families in crisis.

Again, I thank you for this opportunity to testify today.

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Chairman HERGER. Without objection, it will be made part of our record. Also without objection, Mr. Payne, who is not a Member of our Committee, has requested to sit with us for a time, and we will allow that. Again, thank you very much for being with us.

Today, in our second panel, we will be hearing from Colleen Maguire, Deputy Commissioner of the New Jersey Department of Human Services; Kevin Ryan, Child Advocate for the State of New Jersey; Vincent Sarubbi, Prosecutor from the Camden County Prosecutor's Office; the Reverend Harry Thomas, Come Alive New Testament Church; Carla Katz, President of the Communications Workers of America Local 1034; and Marcia Robinson Lowry, Executive Director of Children's Rights. Ms. Maguire to testify.

**STATEMENT OF COLLEEN MAGUIRE, DEPUTY COMMISSIONER,  
CHILDREN'S SERVICES, NEW JERSEY DEPARTMENT OF  
HUMAN SERVICES, TRENTON, NEW JERSEY**

Ms. MAGUIRE. Thank you very much. Good morning, Chairman Herger, and Members of the Subcommittee. On behalf of Governor McGreevey and Commissioner Harris, we thank you for inviting the New Jersey Department of Human Services to be part of this hearing today and to share our outrage and concern regarding the conditions of the New Jersey child welfare system.

Sadly, the Jackson family is the latest in a series of tragedies that have caused all of us in New Jersey to express outrage at the depth of the problems that confront the child welfare system and our commitment to rebuilding the system so that all children are safe. Governor McGreevey has taken some very bold steps in acknowledging the serious need for reform in New Jersey and in fixing its child welfare system, a system that has experienced decades of neglect.

In June, Governor McGreevey ordered the settlement of a long-standing class action lawsuit against the State filed by Children's Rights, Inc. The settlement agreement provides New Jersey the assistance and oversight of a panel of national child welfare experts underwritten by the Annie E. Casey Foundation. He signed an Executive Order creating a Cabinet for Children, which includes Cabinet-level officials from sister departments. He stabilized an Independent Office of the Child Advocate as a watchdog for New Jersey's child welfare system, and he committed in excess of \$30 million, in these very difficult budget times, to hire more staff, buy more equipment, upgrade technology, and expand training for workers.

Governor McGreevey also became the first New Jersey Governor to commit State dollars to begin the development and implementation of the Federally-mandated Statewide Automated Child Welfare Information System. New Jersey just completed an unprecedented effort in assessing the safety of 14,000 children in out-of-home placement.

Tragedies like the Jackson family are not unique to New Jersey. As you know, many States have experienced similar tragedies, and in a few minutes you will hear from Marcia Lowry, who has tire-



lessly championed the welfare of children by filing lawsuits. These lawsuits all too often highlight the failures in the child welfare system.

Some of the issues facing New Jersey's child welfare system and its failures include a fundamental lack of core principles and standards for practice, uneven case practice, excessive caseloads, inadequate training and supervision for the caseworker and supervisory staff, flawed decision-making, inadequate supports for foster and adoptive parents, and an overall lack of systemic accountability. Regrettably, the Jackson case has reinforced these all-too-familiar issues that have been unraveling for the past several months.

On October 10th, the starving 19-year-old boy named Bruce Jackson was discovered rummaging through the garbage in Collingswood, New Jersey, looking for food. Bruce is 4 feet tall, and at the time weighed less than 50 pounds. He and his three adopted brothers, who are 14, 10, and 9, had essentially grown up in New Jersey's foster care system. Our State child welfare agency has placed these boys in their adoptive home and provided financial subsidies to their parents for their care.

It appears that over the years these four boys had been systematically deprived and neglected by the adoptive parents, unlike the girls living in the home. Even more tragic, since 1999, as many of you have said today, DYFS staff had been in the home on 38 different occasions, and none of them apparently voiced any concern about the boys or took any action to follow up. They all believed the parents' explanation that the children had eating disorders.

Together, the boys weighed a total of 135 pounds, their teeth are rotted, and five of the seven children had head lice. I am happy to report, Mr. Chairman, that today the boys have gained a combined total of almost 50 pounds since October 10th. Bruce has gained 18.4 pounds, Keith 13.5 pounds, Tyrone 8 pounds, and Michael 9.5 pounds.

Because of our commitment to accountability, we are going to reassess 6,000 cases, because, quite frankly, the alternative would not be acceptable. In an effort to remake the child welfare system, Governor McGreevey, and those of us who are charged with leading the change, have accepted the fact that the system is so broken it cannot be fixed in a few weeks or a few months. We are working in concert with the Child Welfare Panel to complete a comprehensive public planning process which will result in a reform plan due in January 2004. We are also currently engaged in a self-assessment phase of the Child and Family Services review, and plan to integrate the performance improvement plan and our reform plan together.

Our ability to reform New Jersey's child welfare system requires strong and sustained political will over time both at the State and Federal levels, and, unfortunately, for long after the Jackson story is off the front page. It also requires sufficient resources and supports to our children and families, to our workforce, and to our community to prevent child abuse, protect children, and provide for permanency, all in an effort to meet the laudable goals of the Adoption and Safe Families Act (P.L. 105-89).

We invite you to partner with us and States across the Nation to provide for better outcomes for all children. We ask that you con-

sider expansion of Title IV–E entitlement funding for new services, including post-adoption assistance and community supports, in updating the 1996 Aid to Families with Dependent Children (P.L. 104–193) standards used in determining the Title IV–E eligibility, and in allowing States to reinvest disallowances for Title IV–E to improve child welfare services. We support and applaud Representative Camp’s bill, which reauthorizes the adoption incentive payments program; Representative Cardin’s bill, which seeks to improve the ability of child welfare systems to prevent and respond to child abuse and place children in safe, loving, and permanent homes; and Representative Stark’s bill, which would provide grants to States to improve quality standards by authorizing training funds for child welfare workers.

We ask for your support of our current reform effort and your continued support of adoption subsidies, which has been essential in helping hard-to-place children become a permanent member of a family of their own. Thank you very much.

[The prepared statement of Ms. Maguire follows:]

**Statement of Colleen Maguire, Deputy Commissioner, Children’s Services,  
New Jersey Department of Human Services, Trenton, New Jersey**

Good morning.

Thank you for inviting me to be a part of this hearing.

I am here with mixed feelings.

I am saddened because I understand that this hearing has been called in response to one of the most terrible and heartbreaking cases of child abuse that has ever come to light in New Jersey.

Unfortunately, this case is only the latest in a series of tragedies that has caused all of us in New Jersey to acknowledge the depth of the problems in our child welfare system—problems we are working hard to try to solve.

Unlike previous Governors in New Jersey, Governor McGreevey has taken bold steps to try to get New Jersey’s child welfare on track.

Rather than dig in his heels and fight, the Governor chose to acknowledge how broken our system is and settle a longstanding class action lawsuit against the State filed by Children’s Rights Inc.—so that reforms could move forward and New Jersey could benefit from the expertise of a panel of national experts in child welfare.

In addition, the Governor has committed in excess of \$30 million this year to hire more staff, buy more equipment, upgrade technology and expand training—to give case workers the tools they need to do their jobs and keep children safe.

He has also established an independent Office of the Child Advocate, to fight for the rights of children, and created a Cabinet for Children to engage many State departments in the child welfare change process.

Tragedies like these are not unique to New Jersey.

Many states have experienced similar tragedies.

Too often, the people who are supposed to love and nurture children, instead, hurt and deprive them. That appears to be what happened in the Jackson house. In the midst of a supposedly loving family, these children were literally starving.

When police discovered the children—they weighed a combined total of 134 pounds.

Too often, child protection workers are not held accountable for how well they supervise children in the child welfare system—particularly if the children in question—as in this case—are now adopted.

In New Jersey, we are holding staff accountable for the welfare of children. The child welfare workers who were in this home should have noticed the children’s physical condition and they should have done something about it.

They didn’t and that is why they have been terminated.

In New Jersey, we are in the midst of a massive reform effort that seeks to address significant flaws in our child welfare system. We are focusing not just on hiring more workers and buying more cars, computers and equipment but also developing and adhering to a case practice model that places the welfare of the child and the family at the center of our deliberations.

Unfortunately, cases like the one that brings us here today, obscure the fact that most subsidized adoptions are working and the children in those placements are living in loving, supportive homes.

So it would be tragic if the case we are discussing in Collingswood, and other tragic cases around the country, are used to condemn or indict adoption altogether.

But in New Jersey, we must acknowledge that our child welfare system, as administered by our Division of Youth and Family Services, is broken.

And as Governor McGreevey stated recently about actions we have already taken in response to the Collingswood case, what we are about here is not scapegoating, but accountability.

We must be accountable to those children in New Jersey who are not receiving the kind of protection a strong child welfare system should be providing.

Fixing a system like DYFS, which has suffered as the result of a long-term erosion of support and resources, cannot happen overnight.

It will require real political will that continues to exist long after the TV cameras have been turned off and the story is off the front page of our newspapers.

Only that kind of political will will ensure that a broken child welfare system is repaired from the bottom up, and that it becomes a system which will sustain itself over many years, through a series of administrators and administrations.

It is that kind of political will that can guarantee that a child welfare system receives the resources and supports it needs over time.

And that it has a well-trained workforce, accountable for what it does and working with its partners in the community.

In New Jersey, Governor McGreevey is providing that type of political will.

He has been strong, firm and consistent in his pledge to reform the DYFS system.

And so I am also heartened—and encouraged—by the fact that you have responded so quickly to the case in New Jersey by calling this hearing.

It provides us with a forum to talk not only about the very serious issues affecting children in our own child welfare system, but also about the reform efforts already underway in New Jersey.

It also gives us the opportunity to talk with you about the unintended consequences of current federal policy and legislation as it affects children who are adopted after passing through the child welfare system.

Briefly, the facts of the case that has brought us here today are these:

On October 10, at about 2:30 a.m. a starving 19-year-old boy was discovered rummaging through the garbage in Collingswood, New Jersey, a middle-class, suburban town outside Philadelphia.

The boy was four feet tall and weighed less than 50 pounds.

He was looking for food.

He and his three adoptive brothers, who are 14, 10 and 9, and who also each weighed less than 50 pounds, had essentially grown up in New Jersey's foster care system.

Again, together, the four boys weighed a total of 134 pounds.

Our state child welfare agency, the Division of Youth and Family Services, had placed these boys in their adoptive home and provided financial subsidies for their parents.

The financial subsidy was no greater than they would have received if the boys had remained in foster care.

And the chance that these boys would have been adopted without the subsidy is virtually zero.

It now appears, however, that the subsidy had become the family's primary, if not sole, means of support.

This family had adopted the four boys, one at a time, between 1996 and 1997.

Two girls, ages 5 and 12, also had been adopted and the couple was seeking to adopt another foster child, who is a girl.

There is some indication that the boys may have had medical issues prior to adoption.

However, it appears that over the years, these four boys had been systematically starved by their adoptive parents.

The girls living in the home had not.

Even more tragic, since 1999, DYFS staff had been in the home on 38 different occasions.

Over the past two years, no fewer than five (5) DYFS staff members had visited the home for one reason or another, and none of them, apparently, voiced any concern about the boys or took any action to follow up on them.

Most recently, in June, a young caseworker visited the home in order to determine whether the foster child in the home was safe.

This caseworker, like all the other DYFS staff who had dealt with this family in one context or another before her, missed the fact that other children living in the home were starving and malnourished.

Like others before her, she accepted the parents' explanation that all that ailed these boys was that they were suffering from eating disorders.

However, it has been documented that none of these boys had seen a doctor in at least five years.

The children's teeth were rotted. Some had evidence of lice.

Ironically, this case came to light just one day after we had announced the completion of the safety assessments of almost 14,300 children who currently are living in out-of-home placements.

These safety assessments were done in a relatively short amount of time and they were not perfect.

We are the first state ever to fashion a safety assessment protocol for children in out-of-home placement and it did identify other children in unsuitable and unsafe foster care situations.

The safety assessments, however, are not the issue here.

The fact that the caseworker and other DYFS staff did not recognize or understand the dire condition of these boys, is the issue.

And it is one fact about the case that helps to set in stark relief all of the other issues we are fighting to correct in our child welfare system.

It also underscores how steep a mountain we have to climb.

In a nutshell, the problem in New Jersey is this: past efforts to reform the Division of Youth and Family Services have tackled the job in pieces.

What we are left with, and what a series of tragedies has brought to the fore this year, is a tragically fragmented system.

This case is an example of that.

The caseworker was focused solely on foster care and assessing the home in relation to a single foster child.

She saw the home and the parents only in the context of that child.

Several other system flaws that we have identified early on in the change process must also be addressed.

We have been working to address these issues since another tragedy came to light at the beginning of the year.

These include:

- Poor or uneven case practice methods
- Inadequate supervision of caseworkers
- Flawed decisionmaking
- Lack of training for foster and adoptive parents
- Lack of accountability

In addition, the Collingswood case has raised other issues regarding staff hiring and training methods at the Division of Youth and Family Services.

Specifically, we realize we must now look more closely at:

- The educational requirements for the job. Clearly, not everyone who simply has a bachelor's degree is necessarily qualified to be a caseworker for the Division of Youth and Family Services.
- The quality of the training provided for our workers, and how we can be sure that the training we provide is really absorbed by our staff. We need to know, perhaps through a program of periodic testing, that staff are integrating what they have learned into their daily activities.

In the wake of this case, the Department of Human Services has:

- Taken action to terminate nine (9) employees who were in the home or supervised the workers who were in the home and who should have taken action.
- Taken action to ensure that no foster care license is granted unless all of the members of the family are seen.
- Begun to consider how to address the need for some type of annual medical examination for all children receiving adoption subsidies.
- Decided to enlist qualified professionals from the law enforcement, child welfare, education and health care arenas to redo the safety assessments for children managed by the office that handled the case in Collingswood.

We have:

- Decided to redo approximately 5,000 other safety assessments that were done prior to August 18.

And we have:

- Decided to enlist outside experts to research what types of caps other States place on the number of foster and adoptive children allowed in a given foster or adoptive home. Three years ago we reduced that number to eight, but we may now reduce the number further. In the Collingswood case, seven children were living in the home. Six of these were adopted, and one was a foster child.
- Begun to examine the issue of post-adoption supports and supervision including, but not limited to, the issue of home-schooling and annual medical reviews of children in out-of-home placement.

As part of the context for these changes, I would like to again refer to the court-approved settlement that New Jersey reached in the Children's Rights lawsuit.

Again, this is the case that our Governor and his administration chose to settle, and take swift action to reform the system, rather than fight.

As a result of this settlement, our Division of Youth and Family Services is working under the supervision of a Child Welfare Panel with underwriting from the Annie E. Casey Foundation.

The members of this panel are all national experts.

They are working with us to complete a comprehensive public planning process, which under the terms of the settlement must be complete by January, 2004.

This process is involving us in an intensive top-to-bottom determination of what a model child welfare system should look like in New Jersey, and developing a plan to get us there in a relatively short period of time. This plan will be completed by January.

Currently, more than 150 individuals are participating in three workgroups convened by the panel and the Department.

These panels are addressing the system issues I have already mentioned in addition to others, including a lack of community supports and resources for children and a scarcity of out-of-home placement resources.

These efforts dovetail with a number of other significant steps taken this year by the New Jersey Department of Human Services.

We are, for example, deeply involved in our federal Child and Family Services Review.

New Jersey is the last state in the country to undergo this review and in a number of ways we have been able to benefit from the experiences of the states that have gone before us.

For example, as we embarked on the Child and Family Services Review process, one of the first things we did was to form workgroups on domestic violence and substance abuse.

These workgroups have studied these issues and their findings will be incorporated into the review process.

As part of his commitment to reforming the child welfare system, Governor McGreevey has created a Children's Cabinet.

Its members include the Commissioners of almost every state department that interacts with children—including the Departments of Community Affairs, Law and Public Safety Education, and Health and Senior Services, and the Juvenile Justice Commission.

The State legislature has also lent its support by creating an independent Child Advocate with broad powers to investigate and ensure that we are, in fact, serving children appropriately.

We are also looking for a commitment outside the Department of Human Services through partnerships with various institutions of higher education to develop comprehensive supervisor and management training academies.

Our Department is also deeply aware of the need to engage the public in the process of improving New Jersey's child welfare system.

No single agency, indeed not even all of state government, can do all that is necessary to keep children safe.

As a result, in June our Department instituted a series of "Save the Children" days, in which the Commissioner of the Department of Human Services is visiting with stakeholders in each of New Jersey's 21 counties.

The goal of the Save the Children Days is to engage the community at all levels in the work we are doing to improve our child welfare system, and to elicit their input in ways to make those improvements.

I would like to make a special mention at this point of how gratified we were to see the response of the borough of Collingswood to the tragedy that occurred in their community.

I also want to thank Mayor Jim Maley for his concern and efforts.

Conversations have taken place, and community members have asked themselves whether there should have been a role for them to play in this case.

We also welcome the role that could be played by the federal government to provide the state with the kind of resources and assistance that will make sure another Collingswood situation never arises.

In that context, I would like to offer you some specific recommendations:

#### **FEDERAL RECOMMENDATIONS**

- (1) *Congress needs to recognize the growing national problem of child abuse and neglect and make a major financial commitment to assist the states to address this problem.*

We appreciate that Title IV–E funding is an open-ended entitlement.

However, there are so many restrictions on its use that states are left with a disproportionate share of the child welfare costs.

As a result, New Jersey spends almost twice what the federal government spends to protect children in our state.

I mentioned earlier, for example, that the Governor provided \$31 million in additional state funds for DYFS this year.

These funds, however, will only draw down about \$12 million in federal funds.

The restriction that imposes the greatest limitation to federal IV–E funding, however, is the one that states that a child must be eligible for AFDC as it existed on July 16, 1996.

This standard has not been increased to reflect changes in the cost of living and it is well below the poverty standard for most states and it is the main reason that about half of all the children who are adopted in New Jersey are not eligible for federal foster care funding or adoption assistance.

For that reason, the state bears the entire cost of assisting these children.

In addition, many relatives who accept a child for placement are not eligible for federal payments, so we must use our very limited TANF funds for this purpose.

We also recommend that IV–E funds be available to support broader community-based training that would include both formal and informal supports to families under DYFS supervision.

It is clear in the Collingswood case that the community could have been better prepared to identify abuse.

We also believe that more community supports are needed for families with adopted children that have special needs.

This would allow states to take more of a preventive approach towards child abuse and neglect.

- (2) *At a minimum, the federal government should not exacerbate child welfare problems in a state by withdrawing funds.*

It is ironic that while we are trying to cope with the increase in emergency child welfare needs in our state, we recently received a disallowance of \$6 million as a result of our secondary IV–E review.

We strongly believe that we should be allowed to reinvest those funds to improve child welfare services.

We are advocating a reinvestment policy similar to the effective, common sense approach allowed under federal law when a state exceeds certain error rates in the Food Stamp program.

For example, New Jersey had experienced an ongoing problem with payment accuracy in its Food Stamps program, and we were assessed a penalty of approximately \$3.5 million in FY 2001.

Because we had the option to reinvest these funds to improve our performance, by FY 2002 we had reduced the error rate to the lowest level in the Mid-Atlantic Region.

- (3) *We need to review how other support services can be utilized to provide better care of adopted children receiving state and federal assistance.*

One of the problems that we have already identified in the Collingswood case is that the children were isolated from the professional community.

It appears the children were never taken to a doctor for a medical exam and because they were home schooled they were never seen by teachers on a daily basis as most children are.

The Department is therefore considering requiring medical documentation on an annual basis.

There has also been some discussion regarding whether more oversight is needed when an adopted child who is receiving adoption assistance payments is also being home schooled.

(4) *Federal policy needs to be evaluated in terms of allowing for post-adoption assistance or oversight.*

The federal government does not allow Title IV-E funding for post-adoption assistance for children with special needs, other than the adoption subsidy.

It assumes that these payments will be made until the child becomes an adult, without any oversight or further state involvement.

This may be appropriate policy in many, but not necessarily all, adoptions.

Caring for certain special needs children is very difficult and may require post-adoption supports similar to those that a birth parent would require.

Also, some adoptive parents have no history with the children they adopt and therefore may need assistance, such as participation in support groups, to cope with the needs of their adopted child.

I caution that we need to be careful about this type of intervention.

We do not want to discourage legal adoptions or encourage more adoptions through private agencies, simply as a way to circumvent any new state requirements.

We believe the right balance could be struck in a variety of ways, such as requiring information on an annual basis on the status of the family and the welfare of the children, in addition to information that is already required each year.

We may also need to visit some of these homes on a periodic basis, or monitor certain data on all families that have adopted children with special needs and investigate those where the data indicate there is a high risk.

More follow-up would be required, for instance, if there are more than two adopted children in the home, when the special needs are particularly severe, or when one or both of the parents loses a job.

Federal policy should be changed to allow for these post-adoption expenditures under Title IV-E or remaining national adoption incentive funds.

(5) *The federal government must continue to support adoptions of children with special needs.*

Adoption is still the best means of achieving permanency for children, including those with special needs, who otherwise would linger in foster care.

In most cases, a stable family is key to a child's happiness and development.

The Collingswood case must spur us to do more—not less—to support adoptions.

We are particularly concerned that legislation reauthorizing the Adoption and Promotion Act has not passed the Senate yet.

We strongly support this bill, which was introduced by Representative Camp.

We also would like to commend Representative Cardin for introducing HR 1534 which addresses many of the issues that I have raised today.

Lastly, we also support Representative Stark's bill (HR 2437) which would help states improve the working conditions of child welfare staff.

Thank you.

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Chairman HERGER. Thank you very much, Ms. Maguire, for your testimony. I do want to stress the 5-minute rule. We have been a bit generous to this point, but we would like to have you adhere to that. Mr. Ryan, for your testimony, please.

**STATEMENT OF KEVIN RYAN, CHILD ADVOCATE, NEW JERSEY  
OFFICE OF THE CHILD ADVOCATE, TRENTON, NEW JERSEY**

Mr. RYAN. Thank you, Mr. Chairman. Good morning. My name is Kevin Ryan. I am the Child Advocate for the State of New Jersey. I lead a new, independent agency, statutorily charged in our State with monitoring the public systems that serve children and youth at risk of abuse and neglect. Our jurisdiction includes the child welfare system, the juvenile justice system, schools, daycare centers, mental health facilities, and the public health system.

We are a new entity in New Jersey, as you have heard, and we have taken office just a month ago. We have two primary tasks. The first of these is to probe systemic and individual problems throughout State government with regard to the care and the sup-

port of children and youth at risk of abuse and neglect. Our second role involves problem solving. As we identify systemic deficiencies, my staff of investigators, public interest lawyers, and child welfare specialists must develop solutions to those problems and champion their implementation across and among government agencies.

The Office of the Child Advocate was born of tragedy and a desire to better serve our most vulnerable children. The deaths of children this past year in New Jersey due to abuse and neglect, some of them already known to various State and municipal agencies, has really captured the public imagination. New revelations of maltreatment in the child welfare system, which were brought to light by the Federal class action lawsuit championed by Children's Rights, Incorporated, led the Governor to return to an idea that he and now Congressman Pascrell had years ago as Members of the State legislature, the creation of this independent ombudsman office for children in State government.

The Office of the Child Advocate is equipped with broad new powers, including the power to investigate government agencies, the power to subpoena, the power to sue State government, the power to demand corrective action, the power to hold public hearings, the power to disclose all of our findings publicly, and, most vitally, the power of our independence.

On October 24th, I learned from the State Department of Human Services that four children living in the Collingswood home of Raymond and Vanessa Jackson had been taken to the hospital for treatment of severe malnourishment. I also learned that the household included a foster child, visited numerous times by the State child protection agency during the past several years. The boys were severely underweight and, as all of us know by now, none of them weighed more than 45 pounds. One child weighed 38 pounds when adopted in October 1996, and 7 years later weighed just 40 pounds. In 7 years, the child had gained just 2 pounds, but has gained more than 15 pounds in the last 4 weeks.

The oldest child weighed 49 pounds in December 1995, around the time of his adoption, but weighed only 45 pounds when he was removed from the Jackson home last month. So, that is a net loss, obviously, of 4 pounds in all those years, and now weighs nearly 65 pounds.

The State child welfare agency had visited the Jackson home 38 times in the last 4 years. These visits included meetings with the foster child and Mrs. Jackson, licensing inspections, a child safety assessment, and in a few instances discussions with all of the Jackson children, including the malnourished boys.

We have opened an investigation and seek to answer this central question: how did the condition of all four boys endure for so long, despite the family's involvement with the child protection agency, other government agencies, their neighbors, family, and friends?

It did not take this tragedy to teach me or any of my fellow citizens in New Jersey that the child welfare system is badly broken. The playgrounds of heaven are too crowded with children we should have saved, and we are lucky that we count the Jackson boys among the saved and not among the lost, but that really is a matter of luck and good fortune in the case.



Our investigation is only 2 weeks old. We are cooperating with the Camden County Prosecutor's Office, which is running a concurrent investigation with criminal jurisdiction, and I anticipate a thorough investigation will take 3 months to complete. As we identify systemic deficiencies, we are committed to bringing them to light prior to the completion of our full investigation.

All of the malnourished children had been adopted through the State child protection agency, and the Jacksons received a subsidy from government to help meet the special needs of their children following the adoption. The adoption subsidy program is a success story in the United States, of which this Congress should be very proud. Changes to Federal adoption laws and innovative tools like the subsidy have enabled States to dramatically increase the number of adoptions in the United States over the last several years. New Jersey is near the head of that pack, receiving the second highest bonus payment this year for increasing adoptions. I want to unequivocally acknowledge that as a good thing.

As time is limited, I want to say that I do believe that as a recommendation to this Congress and to the States implementing child welfare reform, it would be a very good idea for all States to require documentation of an updated physical examination by a doctor when the adoption subsidy is annually renewed, and States need to be vigorous in continuing to offer services to special needs children following an adoption.

Respectfully, no matter how hard you try, government will never love a child the way his or her family must. When those families cannot or will not provide that love and attention, government has a fundamental moral obligation to protect children. We all have a long way to go before we are meeting that obligation satisfactorily. Thank you.

[The prepared statement of Mr. Ryan follows:]

**Statement of Kevin Ryan, Child Advocate, New Jersey Office of the Child Advocate, Trenton, New Jersey**

Good morning. My name is Kevin Ryan. I am the Child Advocate for the State of New Jersey. I lead a new, independent agency, statutorily charged with monitoring public systems that serve children and youth at risk of abuse and neglect. Our jurisdiction includes the state's child welfare system; its juvenile justice system; the public health system; schools; day care centers and mental health facilities.

We are a new entity in New Jersey, having taken office less than one month ago.

We have two primary tasks. The first of these is to probe systemic and individual problems throughout state government with regard to the care and support of children and youth at risk of abuse and neglect. Our second role involves problem solving. As we identify systemic deficiencies, my staff of investigators, public interest lawyers and child welfare specialists must develop solutions to those problems and champion their implementation across and among government agencies.

The Office of the Child Advocate was borne of tragedy and a desire to better serve our most vulnerable children. The deaths of children this past year due to abuse and neglect, some of them already known to various state and municipal agencies, captured the public imagination. New revelations of maltreatment in the child welfare system brought to light by the federal class action lawsuit championed by Children's Rights, Inc. led the Governor and the State legislature to create this office by statute two months ago.

The Office of the Child Advocate is equipped with broad new powers, including the power to investigate government agencies; the power to subpoena; the power to sue state government; the power to demand corrective action; the power to hold public hearings; the power to disclose all of our findings publicly; and, most vitally, the power of independence.

On October 24, 2003, I learned from the State Department of Human Services that four children living in the Collingswood home of Raymond and Vanessa Jackson had been taken to the hospital for treatment of severe malnourishment. I also learned that the household included a foster child who was visited numerous times by the state child protection agency during the past several years. The boys were severely underweight, none weighing more than 45 pounds.

One child weighed 38 pounds when adopted in October 1996, and 7 years later weighed just 40 pounds. In 7 years, the child had gained just 2 pounds, but has gained more than 15 pounds in the last four weeks. The oldest child weighed 49 pounds in December 1995, but weighed only 45 pounds when he was removed from the Jackson home last month, and now weighs nearly 65 pounds.

The state child welfare agency had visited the Jackson home 38 times in the last four years. These visits included meetings with the foster child and Mrs. Jackson; a home licensing inspection; a child safety assessment; and in a few instances, discussions with all of the Jackson children including the malnourished boys.

The Office of the Child Advocate opened an investigation on October 25, 2003. My staff and I are poring through more than 20,000 pages of documents from public agencies, and expect to speak with at least 20 witnesses as part of our investigation. The central question we seek to answer is this: how did the condition of all four boys endure for so long despite the family's involvement with the child protection agency, other government agencies, their neighbors, family and friends?

It did not take this tragedy to prove that our child protection systems in the United States are badly broken. The playgrounds of heaven are filled with the children we should have saved. And we are lucky the Jackson boys can be counted among the saved, not the lost.

Our investigation is only two weeks old. We are cooperating with the Camden County prosecutor's office, which is running a concurrent investigation with criminal jurisdiction, and I anticipate that a thorough investigation will take 3 months to complete.

As we identify systemic deficiencies, we are committed to bringing them to light prior to the completion of our full investigation. For example, the licensing protocols for foster homes in New Jersey have historically required proof of a pet's vaccination, but no requirement that all the children in the home be interviewed or their medical records be reviewed. A new group of leaders hired at the Department of Human Services as part of the reform movement has now changed this policy to ensure that every child in a household, no matter their status, is seen by the licensing team. But real reform can't happen protocol by protocol, policy by policy. It requires an organizational renaissance. In New Jersey, that renaissance has to overcome 25 years of malaise, poor resources and wavering political will.

All of the malnourished children had been adopted through the state child protection agency, and the Jacksons received a subsidy from government to help them meet the special needs of their children following the adoption. Federal subsidies were created by Congress through Public Law 96-272—the Adoption Assistance and Child Welfare Act of 1980—to encourage the adoption of special needs children and strip the financial disincentives to adoption for families. Children may receive a Federally funded subsidy under Title IV-E or a state-funded subsidy as per state guidelines. Depending on the age and needs of the child, and the date of their adoption, the typical subsidy ranges between \$315 and \$678 per month. Adoptive parents of the most medically fragile children can receive an “exceptional rate” of as much as \$1,407 per month.

The adoption subsidy program is a success story of which this Congress should be proud. Changes to federal adoption laws and innovative tools like the subsidy have enabled states to dramatically increase the number of adoptions in the United States over the last several years. New Jersey is near the head of that pack, receiving the second highest bonus payment this year for increasing adoptions in 2002. I want to unequivocally acknowledge that as a good thing. Permanence and stability are essential for children.

It would be a very good idea for all states to require documentation of an updated physical examination by a doctor when the adoption subsidy is annually renewed. And states need to be vigorous in continuing to offer services to special needs children following an adoption. Neither occurred in the case of the Jackson boys, and both steps could have prevented the tragic outcome of four boys found starving, their parents charged with criminal wrongdoing and a family torn apart.

This Subcommittee has a critical role to play to improve our nation's child welfare systems, many of which do not evidence a robust national or state commitment to children. Too many include caseloads for workers that are too high; inadequate training for caseworkers and supervisors; scarce access to resources, such as prevention and placement services; and a complete failure to track outcomes for children

longitudinally. In New Jersey, these failures, and many others, will be addressed when a panel of child welfare experts approved by the Federal court pursuant to the state's settlement agreement with Children's Rights, approves a federally enforceable series of benchmarks and outcomes for children in January.

But it remains very troubling throughout the nation that real progress in lowering caseloads, instilling accountability and improving services to our most vulnerable children are more likely to result from public interest litigation and advocacy than anything else. This Subcommittee is uniquely positioned to ensure that these systems have the resources and operational accountability necessary to save children.

Respectfully, no matter how hard you try, government will never love a child the way his or her family must. But when those families cannot or will not provide that love and attention, government has a fundamental moral obligation to protect children. We have all got to do a much better job of filling the void.

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Chairman HERGER. Thank you, Mr. Ryan. Mr. Sarubbi to testify.

**STATEMENT OF VINCENT P. SARUBBI, PROSECUTOR, CAMDEN COUNTY OFFICE OF THE PROSECUTOR, CAMDEN, NEW JERSEY**

Mr. SARUBBI. Mr. Chairman and Members of the Subcommittee on Human Resources, I am pleased to have the privilege of appearing before this distinguished Subcommittee today to address serious and substantial issues relating to the health and welfare of our greatest and most important human resource: our children.

By way of background, I have been a practicing attorney in New Jersey since 1988. As you may know, in my home State, county prosecutors are not elected, rather they are appointed by the Governor for 5-year terms. I was nominated by Governor James E. McGreevey to be the prosecutor of Camden County for a 5-year term, and following my confirmation by the senate, I was sworn in and commenced my term in July 2002.

My office consists of more than 250 staff members. Included in this number are some 65 assistant prosecutors, more than 100 investigators, who have full police powers, as well as clerical and support staff members. The community we serve includes approximately 550,000 residents. The city of Camden, our county seat, lies directly across the Delaware River from Philadelphia. Many of our residents work in the Philadelphia area. The Borough of Collingswood is a residential community of about 14,000 people, and it borders Camden City and is located about 5 miles from Philadelphia. Collingswood is a quiet and peaceful, proud municipality, which has recently experienced a renaissance of its downtown area.

In the early morning hours of October 10, 2003, a Collingswood resident heard and observed someone rooting through the trash outside their home. The resident approached and observed the boy he believed to be about 10 years old. The boy was emaciated in appearance. The Collingswood Police were summoned and responded to the scene. The boy was subsequently identified as Bruce Jackson, an adopted son of a local family. He stood just 4 feet tall and weighed just 45 pounds. The responding officers were shocked to learn that Bruce was 19 years old.

When the police entered Bruce's home, they observed three other adopted boys, aged 14, 10, and 9, small in stature and emaciated in appearance. Also living in the home were other adopted and bio-

logical children of parents Raymond and Vanessa Jackson. These other children of Mr. and Mrs. Jackson appeared to be in good health. The 14-year-old boy Keith weighed 40 pounds. Tyrone, aged 10, weighed 28, and 9-year-old Michael weighed just 23 pounds.

The New Jersey DYFS removed the four boys from the Jackson residence that day, and they were admitted to area hospitals. We learned that the four boys had been adopted through DYFS, and Mr. and Mrs. Jackson had been paid monthly stipends.

Members of this Committee, the investigation that I am engaged in currently is likely to be ongoing for several more months to come. Between October 10, 2003 when the boys were discovered and October 24, 2003, we enlisted medical experts to evaluate the boys' condition. We made an effort to take a responsible and objective view of the conditions of these children by looking into their medical history and their background. Our focus was to determine what caused them to be so dramatically underdeveloped. These medical experts determined that the boys had been deprived of adequate nutrition and medical care.

Based upon these medical assessments and other investigative information developed, I was satisfied that probable cause existed to support criminal charges of aggravated assault and child endangerment against Raymond and Vanessa Jackson, the adoptive parents. I therefore authorized officers to pursue these charges. On October 24, 2003, following review of the charges by a judicial officer, arrest warrants were executed and served upon the defendants. They were lodged in the Camden County Correctional Facility until November 1, 2003, when each posted bail of \$100,000.

The medical review that we did in this case included a genetic review and also additional experts to rule out the possibility of any type of a Deoxyribose Nucleic Acid (DNA) defect or other type of genetic defect. We also ruled out thyroid problems and any other type of medical conditions that could have contributed to these boys' resulting weight and their health problems. Admittedly, our investigation revealed through the parents that these children had not seen medical attention for a period of 4 years. To this day Bruce remains in the hospital and has undergone two separate blood transfusions because of an iron deficiency that exists in his system.

It should be noted in this case that the Jacksons were in the process of attempting to adopt another foster child, a 10-year-old female. The DYFS workers visited the home on numerous occasions to evaluate the suitability for the adoptive girl. My office is investigating also DYFS's involvement with the family.

It is my understanding that in addition to this information, the Subcommittee wants to know the present condition of the children. In this regard I am pleased to tell you that they are doing well. As of November 3rd, Bruce had gained 18 pounds, weighed approximately 63 pounds; Keith gained 16.5 pounds, weighed 56.5 pounds; Tyrone had gained 11.6 pounds, weighing 39.6 pounds; and Michael had gained 9 pounds and weighed 32 pounds. It should be noted that the progress was achieved simply through a proper diet and vitamins with no growth medications administered or steroids of any type.

I want to emphasize that our investigation is in its preliminary stages. We have numerous documents to go over, many statements from witnesses to take. Our focus has moved from the Jacksons primarily to the DYFS aspect of this case. We also, as Mr. Ryan does, anticipate that our investigation should take somewhere in the area of 3 months. I will be happy to return to supplement this record should the Chairman or this Subcommittee determine that my testimony is relevant.

I also want to state that we have rules in the State of New Jersey which restrict my ability to indicate all investigative aspects and evidence with respect to this case. I want this Committee to know that we will give the Jacksons every legal right that they are entitled to. We firmly believe that they, like any defendants in the New Jersey criminal system, are entitled to a full and fair trial and the outcome to be determined by a jury.

I want to thank again the Committee for the opportunity to appear here today, and I commend you for your care and concern of these children. I welcome your questions.

[The prepared statement of Mr. Sarubbi follows:]

**Statement of Vincent P. Sarubbi, Prosecutor, Camden County Office of the Prosecutor, Camden, New Jersey**

Mr. Chairman and Members of the Subcommittee on Human Resources,

I am pleased to have the privilege of appearing before this distinguished Subcommittee today to address serious and substantial issues relating to the health and welfare of our greatest and most important human resource, our children.

By way of background, I have been a practicing New Jersey attorney since 1988. As you may know, in my home State, county prosecutors are not elected; rather, they are appointed by the Governor for five-year terms. I was nominated by Gov. James E. McGreevey to be Prosecutor of Camden County and, following my confirmation by the New Jersey Senate, I was sworn in and commenced my term in July 2002.

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The Borough of Collingswood is a residential community of about 14,000 people. It borders Camden City and is located about five miles from Philadelphia. Collingswood is a quiet, peaceful and proud municipality which has recently experienced a renaissance of its downtown area.

In the early morning hours of Oct. 10, 2003, a Collingswood resident heard and observed someone rooting through the trash outside his home. The resident approached and observed a boy he believed to be about 10 years old. The boy was emaciated in appearance. Collingswood Police were summoned and responded to the scene. The boy was subsequently identified as Bruce Jackson, adopted son of a local family. He stood just 4 feet tall and weighed just 45 pounds. The responding officers were shocked to learn that Bruce was 19 years of age.

When the police entered Bruce's home, they observed three other adopted boys, ages 14, 10 and 9, all small in stature and emaciated in appearance. Also living in the home were other adopted and biological children of parents Raymond and Vanessa Jackson. These other children and Mr. and Mrs. Jackson appeared to be in good health.

The 14-year-old boy, K.J., weighed 40 pounds. T.J., age 10, weighed 28 pounds, and 9-year-old M.J. weighed just 23 pounds. The New Jersey Division of Youth and Family Services (known as DYFS), removed the four boys from the Jackson residence that day, and they were admitted to area hospitals. We learned that the four boys had been adopted through DYFS and that Mr. and Mrs. Jackson were paid monthly stipends for each of the boys.

My office, together with the Collingswood Police Department, under the leadership of Chief Thomas J. Garrity Jr., commenced a criminal investigation.

Members of the Committee, that investigation is ongoing and will likely continue for many weeks to come.

Between Oct. 10, 2003, when the boys were discovered, and Oct. 24, 2003, we enlisted medical experts to evaluate the boys' conditions. Our focus was to determine what caused them to be so dramatically underdeveloped. These medical experts determined that the boys had been deprived of adequate nutrition and medical care. Based upon these medical assessments and other investigative information developed, I was satisfied that probable cause existed to support criminal charges of Aggravated Assault and Child Endangerment against Raymond and Vanessa Jackson, the adoptive parents. I therefore authorized officers to pursue these charges. On Oct. 24, 2003, following a review of the charges by a judicial officer, arrest warrants were executed and served upon the defendants. They were lodged in the Camden County Correctional Facility until Nov. 1, 2003, when each posted a \$100,000 bond.

The arrest warrants charge the Jacksons with "recklessly, under circumstances manifesting extreme indifference to the value of human life, causing serious bodily injury" to the four boys. In addition, warrants allege the couple endangered the boys by failing to provide adequate medical care. The investigation indicates the children have not seen a doctor for approximately five years despite the fact that, as children adopted through DYFS, they were eligible to receive health care services through Medicaid benefits.

An additional six endangering counts allege the Jacksons failed to provide a proper home for six children under 18 living there. The investigation indicates the home had no electricity from June 18, 2003, through Oct. 6, 2003, and no gas service from Sept. 8, 2003, through Oct. 6, 2003.

I want to make clear to the Subcommittee that I understand and respect the fact that these defendants are innocent of any and all charges until and unless proved guilty in a court of law. My office and I are committed to recognizing and honoring all of their legal rights and ensuring that they will get a fair trial.

Towards this end, I trust you will understand that I am unable at the present time to share with you in public session specific and detailed investigative information. As I see it, my role here today is not to make a case against these defendants, rather it is to provide the subcommittee with facts so that you may more knowledgeably perform your critically important legislative functions.

The investigation further revealed that social workers employed by DYFS were not required to and did not monitor the physical, emotional or psychological condition of these children once their adoptions were finalized. Simply put, there was no "safety net" in place.

It should be noted that the Jacksons were in the process of attempting to adopt another foster child, a 10-year-old female. DYFS workers visited the home on numerous occasions to evaluate its suitability for adopting the girl. My office is investigating DYFS's involvement with the family.

It is my understanding that, in addition to information regarding the condition of these boys on Oct. 10, 2003, this subcommittee wants to know of their present condition. In this regard, I am pleased to share with you the following update, which was provided to me on Nov. 3. As of that date:

- Bruce had gained 18 pounds and weighed 63 pounds;
- K.J. had gained 16½ pounds and weighed 56½ pounds;
- T.J. had gained 11.6 pounds and weighed 39.6 pounds;
- And M.J. had gained 9 pounds and weighed 32 pounds.

It should be noted that this progress was achieved simply through a proper diet and vitamins, with no growth medications administered.

I thank you again for the opportunity to appear here today. I commend you for your care and concern for these children and I welcome your questions.

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Chairman HERGER. Thank you very much, Mr. Sarubbi, for your testimony. Now the Reverend Harry Thomas to testify.

**STATEMENT OF REVEREND HARRY L. THOMAS, JR., SENIOR PASTOR, COME ALIVE NEW TESTAMENT CHURCH, MEDFORD, NEW JERSEY**

Reverend THOMAS. Good morning. My name is Harry L. Thomas, Jr. I am Senior Pastor of the Come Alive New Testament Church located in Medford, New Jersey. Ray and Vanessa Jackson

are long-time members of my congregation, and I want to thank this Committee for the invitation to appear here today.

In America a person is supposed to be innocent until proven guilty. That is not what has happened to Ray and Vanessa Jackson. They have been charged, tried, and convicted in the media. It has been less than 2 weeks since their arrests, yet even in the language used by this Committee, there is an assumption of their guilt. Let me quote from the Committee's advisory: "This hearing seeks to expose how these children's abuse went unnoticed so that we can work to prevent other children from enduring such horrible abuse."

I respectfully would like to suggest the reason that no abuse was noticed was that there was no abuse going on. This Committee instead might want to consider the following questions: why would anyone want to be a social worker if they have been summarily dismissed? Why would anyone want to adopt fetal alcohol syndrome, crack, or sexually abused children and take significant legal risk of being accused of neglect?

My own experience with this family is much different than what has been portrayed. Ray and Vanessa Jackson have a real love for children. Their children were always clean, happy, and well dressed. Whenever I saw them, it was clear that Ray and Vanessa had made every attempt—have made education a real priority to all the kids to read well.

Unlike what has been reported, Ray and Vanessa treated their adopted and foster children the same as their own children. For example, when they went to Disney World, they took along their foster kids. This trip included Bruce, the troubled 19-year-old, who has been—who has made numerous false accusations.

The DYFS had a knack, in my opinion, of taking advantage of this family. The DYFS would contact the Jacksons and ask them to provide emergency housing for just a weekend. Invariably the children would have to stay much longer, and some of these children were eventually adopted by the Jacksons.

These children were also some of the most difficult kids in the system. It is my understanding that the three younger boys had fetal alcohol syndrome. The oldest, Bruce, had developed an eating disorder by the time he was 3 years old. He also had been hospitalized because of abuse at the hands of his birth father. On the first day he arrived in the Jackson's home, he proceeded to urinate on the floor. Apparently he had been living in the street, and this is what he was used to.

Bruce has a very unusual psychological eating disorder in that he voluntarily brings up his food back from his stomach to his mouth very much like a cow chewing its cud. Yesterday, as we were preparing for this hearing, we stumbled on a very interesting medical article about a disorder called rumination. This article was written by Dr. Cynthia R. Ellis, M.D., and was posted on the Internet at <http://www.emedicine.com/ped/topic2652.htm>. It certainly sounds like the condition that Bruce has.

Here are a few quotes from this paper. This article states that rumination is the voluntary or involuntary regurgitation and re-chewing of partially digested food that is either reswallowed or expelled. This regurgitation appears effortless, may be preceded by a

belching sensation, and typically does not involve retching or nausea. Rumination may cause the following: halitosis, malnutrition, weight loss, growth failure, electrolyte imbalance, dehydration, gastric disorders, upper respiratory distress, dental problems, aspiration, choking, pneumonia, or death. Rumination is more common in individuals with severe and profound mental retardation than in those with mild or moderate mental retardation. Prevalence rates of 6 to 10 percent have been reported among the institutionalized population of individuals with mental retardation. Rumination is estimated to be the primary cause of death in 5 to 10 percent of individuals who ruminate. Mortality rates of 12 to 50 percent have been reported for institutionalized infants and older individuals.

I am not a doctor, but I would like to suggest that perhaps Bruce is suffering from this condition. One question that I think needs to be answered is this: did DYFS know about this condition before placing the child in the Jackson home? If so, did it explain the serious nature of this illness and provide the necessary support structures and resources to cope with it? Should Bruce perhaps be institutionalized?

The family has numerous stories about Bruce's bizarre eating habits. For example, Bruce used to eat his lunch on the way to school and then tell his teachers that his home had not packed the lunch. The teacher and Vanessa came up with a system involving a notebook that had to be signed and returned home to ensure that he was, in fact, eating the lunch at the right time. Before Bruce even arrived at the Jackson's home, it was discovered he had gotten into a litter box and eaten cat feces.

Bruce, to say the very least, was a very difficult child for the Jacksons to handle. The Jackson family tried their very best to keep him from eating drywall. There was a spot near to the couch that he used to peel off and eat the drywall. The family had to repeatedly spackle that area. Bruce also got into the dog food in the basement and even hid a stash for later use.

Bruce apparently was kicked out of several schools. The Pennsauken school system could not cope with his behavior, so they kicked him out. At the Central School, he was caught stealing lunches, eating them and then throwing up in the kid's lunch bag. At Roosevelt School, he was there only 1 day when they asked him to leave because teachers could not handle it. At Carson School, there was more eating and throwing up. The final straw was when he stole food and then threw up upon the teacher.

This is the reason that the Jacksons started home schooling Bruce. The police theory is that they are using home schooling as a way to avoid detection of the abuse of their children. This is silly. All the boys have been taught to read and can even do addition and multiplication.

Ray Jackson was asked one time why in the world did he choose to adopt someone like Bruce after having him as a foster child for a number of years. Ray said that he and Vanessa had discussed it and decided that if they didn't adopt him, no one else would. How many of us in this room would have taken a project like Bruce? I don't know the exact number, but I think if you were to get \$7,000 annually to feed, clothe, house, and educate him, the police theory is that this was a money-making scam. Ridiculous. In fact, when



you convert from fostering a child to adopting a child, there is no guarantee that your benefits will continue. That is what happened to one of the Jackson kids. After adoption, they lost their income for this child.

As I was sitting down to write this statement, my office received a phone call from a person who is heavily involved with DYFS and does not want their identity known for fear of being fired. Here are some of her quotes: "DYFS is out of control. They think they are God. Every day I am faced with foster parents asking me how can I get rid of my kid when faced with difficult problems on health issues. Crack addict moms who put their babies in trash cans to rot will not be punished, but a very real effort will be made to reunite the baby with its mother. Then they will wrap support around the mother in order to keep the family together. Adopted foster parents just get thrown to the wind."

That is what we have with the Jackson family. Even though they have provided a loving, supportive family for some very difficult children, their only thanks is to be thrown in jail. In my judgment, this is a case of jumping to conclusions, a very rush to judgment. Thank you for hearing me.

[The prepared statement of Reverend Thomas follows:]

**Statement of Reverend Harry L. Thomas, Jr., Senior Pastor, Come Alive  
New Testament Church, Medford, New Jersey**

Good morning. My name is Reverend Harry L. Thomas, Jr. I am the senior pastor for the Come Alive New Testament Church located in Medford, NJ. Ray and Vanessa Jackson are long time members of my congregation.

I want to thank this committee for the invitation to appear here today. In America a person is supposed to be innocent until proven guilty. That is not what has happened to Ray and Vanessa Jackson. They have been charged, tried and convicted in the media.

It has been less than two weeks since their arrest yet even the language used by this committee assumes they are guilty. Let me quote from the Committee's advisory, "This hearing seeks to expose how these children's abuse went unnoticed so that we can work to prevent other children from enduring such horrible abuse."

I respectfully would like to suggest the reason that no abuse was noticed was because there was no abuse going on. This committee instead might want to consider the following questions.

- 1.) Why would anybody want to be a social worker if they can be summarily dismissed?
- 2.) Why would anybody want to adopt fetal alcohol syndrome, crack and/or sexually abused children and take the significant legal risk of being accused of neglect?

My own experience with this family is much different then what has been portrayed. Ray and Vanessa Jackson have a real love for children. Their children were always clean, happy and well dressed whenever I saw them. It is clear that Ray and Vanessa have made education a real priority and all the kids read well. Unlike what has been reported, Ray and Vanessa treated their adopted and foster children the same as their own children. For example, even when they went to Disney World they took along their foster kids. This trip included Bruce, the troubled nineteen-year-old who has made numerous false statements.

DYFS had a knack in my opinion of taking advantage of this family. DYFS would contact the Jacksons and ask them to provide emergency housing for just the weekend. Invariably the children would have to stay much longer and some of these children were eventually adopted by the Jacksons. These children were also some of the most difficult kids in the system. It is my understanding that the three younger boys have Fetal Alcohol Syndrome. The oldest, Bruce, had developed an eating disorder at the age of three. He also had been hospitalized because of abuse at the hands of his birth father.

On the first day he arrived in the Jackson home he proceeded to urinate on the floor. Apparently he had been living in the street and this was what he was used

to. Bruce has a very unusual psychological eating disorder in that he voluntarily brings his food back up from his stomach to his mouth very much like a cow chewing its cud.

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Rumination may cause the following:

- Halitosis
- Malnutrition
- Weight loss
- Growth failure
- Electrolyte imbalance
- Dehydration
- Gastric disorders
- Upper respiratory distress
- Dental problems
- Aspiration
- Choking
- Pneumonia
- Death

Rumination is more common in individuals with severe and profound mental retardation than in those with mild or moderate mental retardation. Prevalence rates of 6–10% have been reported among the institutionalized population of individuals with mental retardation.

Rumination is estimated to be the primary cause of death in 5–10% of individuals who ruminate. Mortality rates of 12–50% have been reported for institutionalized infants and older individuals.

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Before Bruce even arrived at the Jackson home it was discovered that he had gotten into a litter box and eaten the cat feces. Bruce to say the least was a very difficult child for the Jacksons to handle. The Jackson family tried their very best to keep him from eating drywall. There was a spot near their couch where he used to peel away at the drywall to eat. The family had to repeatedly spackle this area. Bruce also got into the dog food in the basement and even hid a stash in a secret place for later use.

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"DYFS is out of control! They think they are God. Every day I am faced with foster parents asking me, 'How can I get rid of my kid,' when faced with difficult problems or health issues. Crack addict moms who put their babies in trash cans to rot will not be punished but a very real effort will be made to reunite the baby with mother. They then will wrap support around the mother in order to keep the family together. Adopted and foster parents just get thrown to the wind!"

That is what we have with the Jackson family. Even though they have provided a loving supportive family for some very difficult children, their only thanks has been to be thrown in jail.

In my opinion, this is a case of jumping to conclusions. A very real rush to judgment.

Thanks for listening.

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Please find below a random list of quotes and comments that tend to support the Jackson family.

1. A man called to say that the Jackson family watched his two children six days a week for over five years from 1997 to 2001. They even potty-trained his son. All the kids sat together to eat. He and his wife would often show up at unexpected hours and never saw anything weird. This information has been verified as correct.
2. A key employee of a prominent mental health and retardation facility says that the family would regularly perform as the entire family for the benefit of the patients and medical personnel. The person though did not want me to mention the name of this facility for obvious reasons.
3. Bruce, the 19-year-old, was clearly the most afflicted. He has made statements that are clearly not true.
  - a. He says he has never eaten in a restaurant but there are many photos that show Bruce eating in restaurants beside his family.
  - b. He said he was not allowed to attend church yet the church attendance records show that he attended church 67 times in 2 years.
  - c. He claims that he was not allowed to watch TV but was forced to sit in front of a black screen as punishment. Another newspaper article though quotes Bruce as saying that he wanted to go to "Chili's Restaurant because he saw their ad on TV." The article also stated that apparently Bruce did watch a lot of TV in the Jackson household. Another reasonable explanation is that the TV was off because the electric had been off for a period of months.
  - d. Bruce apparently says that he ate nothing but uncooked pancake batter, peanut butter and jelly sandwiches and drywall. People have come forward and are willing to testify that this is totally false and have had meals with the family and saw Bruce eat what everybody else did. Also, please take a rational look at the allegation. People actually get good nutrition from peanut butter and jelly sandwiches. This allegation looks like one of those IQ questions that ask you to find the word that does not belong.
4. We received a phone call from a specialist in pre-natal addictions and fetal alcohol syndrome from a NJ hospital. She said nothing she has read about the children was inconsistent with these conditions. She was upset that the prosecutor apparently had not consulted a specialist in this field before rendering a judgment.
5. A Jewish holocaust survivor has come forward. She was on board the famous "Kinder" train from Germany to Britain. In Britain she suffered from low food rations and knows what hunger is all about. She is willing to testify that the entire Jackson Family including Bruce came to a picnic that she was sponsoring. The whole family, Bruce included. It is my understanding that she has known the family for 11 years.

6. Ray's boss called. He was enraged and said something to the effect that the Ray he has read about is not the Ray that he has known and worked with for many years. This certainly runs counter to the low-life welfare hustler image that many have tried to paint.
7. When I was interviewed by the prosecutor's office, one of the interviewers whispered to me when they were alone that he had interviewed the children after they were taken from the home. He said that they were the best mannered and pleasant children he had ever interviewed.
8. There were no locks on the refrigerator, cabinets or even the door. There was though an alarm that was only turned on at night. According to the family this was done to prevent Bruce from sneaking down at night and raiding the food and vomiting it up. This is much different than what has been portrayed by leaks.
9. Three Jackson family siblings were individually interviewed by the investigators. The children claim that they were held for three hours under very intimidating conditions. They say they were yelled at and called liars. They say they remained calm and told the investigators, "What do you want us to say, we are telling you the truth already. Anything else would be a lie!" The siblings also stated that one line of the questioning seemed to suggest the investigators thought that the Come Alive New Testament Church might be a cult that had something against doctors.
10. Does it make any sense that the family would starve their children but also teach them to read at a high level? Even the new foster families have reportedly commented on the fact that the boys apparently read well and are quite happy. The three younger boys apparently are getting along fabulously if news reports are to be believed. If the boys were starved to within an inch of their lives how could they have recovered so quickly? It certainly flies against common sense. Why has Bruce done so poorly? Is it possible the hospital is experiencing the same chronic problems that the parents claim have been misdiagnosed as starvation?
11. All the family photos and videos that were at the Jackson house have been confiscated by the prosecutor's office. These photos and videos are needed immediately by the family to show that the prosecutor's theory is not correct.
12. There was no lock on the refrigerator, the cabinets or even the door leading into the kitchen. There was though an alarm that was turned on at night that would be triggered if somebody went into the kitchen. Bruce had a history of gorging on huge amounts of food and needed to be deterred.
13. All the boys can read, write, multiply and spell. The police claim that the home school was a sham and that there were no books. The books are there but were overlooked by the police in their search. There are also photos and videos to back this up.

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Chairman HERGER. Thank you, Reverend Thomas. Now Ms. Carla Katz, President of the Communications Workers of America (CWA) Local 1034, to testify.

**STATEMENT OF CARLA KATZ, PRESIDENT, COMMUNICATIONS WORKERS OF AMERICA LOCAL 1034, WEST TRENTON, NEW JERSEY, ON BEHALF OF THE COMMUNICATIONS WORKERS OF AMERICA**

Ms. KATZ. Thank you, Mr. Chairman and Members of the Subcommittee. My name is Carla Katz. I am President of CWA Local 1034. Our local represents 16,000 public workers in New Jersey, including more than 700 Child Protective Service workers in South Jersey, and represents six of the nine workers who have been fired in connection with this case in Collingswood. I am speaking today on behalf of the CWA and specifically on behalf of the three locals, 1034, 1037, and 1039, that represent DYFS workers.

Before I begin to discuss the systemic problems that we believe contributed to this case, I want to say unequivocally that I do not believe that New Jersey is the only child protective system in cri-

sis. From what we understand, child protective service is in trouble all over the country. There are many examples of the systems breaking down in Connecticut, Florida, Indiana, Ohio, New York, and around the country. The agency that sued New Jersey has sued many other systems. In preparing this testimony, I did an Internet search for the last 30 days of news. I submitted the words “foster care” and “death” to find only those cases where a foster care situation could have resulted in a child death, and there were 321 hits. These tragedies are occurring in Utah, Missouri, Michigan, North Carolina, California, and Florida.

We believe that the problems that result in children being in foster care and sometimes in custody are complex, and we know that the solutions are expensive and difficult. As a society, we need to address and move to solve the horrific problems that lead to child death and child abuse because children are our most vulnerable citizens and our most precious. Having said that, I want to address some of the problems specific to New Jersey DYFS if we are to solve them.

It has taken nearly two decades for things to get this bad at DYFS in New Jersey. The agency has been consistently and grossly underfunded. It has suffered budget and staffing cuts despite the fact that caseloads were and are growing, and more children need our protection. Caseloads have increased by one-third over the past decade at the same time that the turnover rate for workers hovers around 9 percent. This is unacceptable, and it will only mean more tragedies.

Despite the reality that children suffer in every State in our great Nation, other States have made reforms that did not happen in New Jersey, and as a result, caseworkers are doing without the basic resources they need to do their jobs well.

What are some of the conditions in New Jersey? We have a computer system from the Stone Age, and millions of dollars that were allocated for a new system to serve the 50,000 DYFS families was turned over to purchase one for 1,200 families involved with the Children’s Initiative, which was a special initiative by former Governor Christie Whitman designed for families with needs that have children with mental health problems.

New Jersey didn’t give DYFS workers the safety tools and structured decisionmaking that they need. These tools were in place in other States for years. Some of them have been put in place in New Jersey over the last few months, but there was no vetting by the workforce, no significant input by the workers or the union. Many workers continue to criticize the tools they are being asked to use as not being appropriate or tested.

New Jersey didn’t give workers the latest training, and they need it. The DYFS training involves 21 days of new worker training and very little else. There is very little in-service training. There are no incentives for workers to pursue graduate training on their own. Additionally the union believes that all workers should have some time in a district office learning protective services work before moving exclusively into foster care or adoption units.

New Jersey didn’t recruit any significant number of additional new foster parents. Recruitment of foster families had been turned over to faith-based and private nonprofit groups during Governor

Whitman's era of privatization. This program, considered a panacea, has failed to recruit any increase in foster homes, and our foster home experts say it has resulted in the recruitment of many inappropriate foster homes.

New Jersey didn't also cap caseloads. The Child Welfare League of America (CWLA) says that caseworkers handling intake cases should have no more than 12 families on their caseloads. We have intake workers with as many as 100. The CWLA says that caseworkers handling adoption cases and that of home placement supervision should have no more than 15 children on their caseloads. The caseworker in the Collingswood case had more than double that.

The CWLA says that caseworkers supervising children in their homes should have no more than 25 children on their caseloads. The worker who repeatedly went out to see Faheem Williams, the little boy whose tragic death this past January made national news, but failed to do so, at one point had 106 children on her caseload.

In the Collingswood case and in the case of adoption, generally there are severe systemic issues that contributed to this tragedy. Let me be clear, the firing of nine workers will not solve any of those problems.

What keeps going wrong? Caseloads are too high. In this case, the inexperienced caseworker had more than double the number of cases she should have had.

There is not enough staff, and the turnover is too high. In 1999, the Child Death and Critical Incident Panel and the Governor's Review Panel both said, lack of staff is a major problem, end quote. If we think that it is hard to find and keep good DYFS workers now, just imagine what the impact of criminal prosecution on any DYFS worker will have on the ability of that agency to hire good, qualified staff.

Supervision is compromised. In this case in Collingswood, the caseworker's immediate supervisor was overseeing two units of workers who all had excessive caseloads.

There is a fractured system of communication. It is not clear that there was appropriate communication between all of the parties, and the basic DYFS policy on foster parents is that they are, quote, colleagues, end quote, and DYFS is not investigating them.

There is a lack of sufficient quality foster care homes. As a result, children are placed in homes like this one with many other children or homes that are compromised in some way. The DYFS is currently proposing limiting the number of foster children in the home to three, which we believe will make the problem of available placement much worse, not better. Our union made a proposal more than 3 months ago to recruit quality foster parents out of the ranks of organized labor, and instead of widespread interest throughout the New Jersey labor movement, the State of New Jersey has not even met with us on this proposal.

There is inadequate follow-up after adoption. There is no requirement for any DYFS contact with children of subsidized adoption once that adoption is final. There is no mandated schedule of medical care for children post-adoption.

Much has been said about what the workers saw or didn't see in the Jackson home in Collingswood, and we do not know the answer to that question because we, the union, have not seen a single document in this case. We do know that there was not one person that was sent into the home to see those boys. The DYFS caseworker was in that home to see the foster child named Breanna. She was the only child in that home under DYFS supervision. She was the only child with an open case, and it seems clear to us that DYFS should be following up on adoptions.

Since I am way over time, let me just conclude by saying reacting to a crisis such as this by firing people indiscriminately encourages the workforce to believe that there is no real accountability, there is merely retribution. I ask that you respect and honor the people who do the most difficult job. Our members knock on unknown doors in the most dangerous neighborhoods in New Jersey in places the police do not go without backup. They do it alone, and they ask the people behind those doors to "let me see your children." They spend their work lives with babies and children with bruises, burns, welts, broken bones, unimaginable sexual abuse, and some of the worst cases of neglect that can be imagined. These workers have been held hostage, choked, beaten, and threatened in the carrying out of their work.

There are real systemic solutions. Our union wants to participate in implementing them as quickly as possible and our members who engage in child protective services are by and large unsung heroes, and we at least in CWA honor them.

[The prepared statement of Ms. Katz follows:]

**Statement of Carla Katz, President, Communications Workers of America Local 1034, West Trenton, New Jersey, on behalf of the Communications Workers of America**

Good morning. Thank you Mr. Chairman and Members of the Committee, for allowing testimony from the Communications Workers of America.

My name is Carla Katz. I am the President of CWA Local 1034. Local 1034 represents 16,000 public workers in New Jersey, including more than 700 Child Protective Services workers in South Jersey. We represent 6 of the 9 workers who have been fired in connection with the case in Collingswood.

I am speaking today on behalf of the Communications Workers of America and specifically on behalf of the three Locals 1034, 1037 and 1039 in New Jersey that represent DYFS workers.

Before I begin to discuss the systemic problems that we believe contributed to this case, I want to say unequivocally that I do not believe that New Jersey is the only child protective system in crisis. From what we understand, child protective services is in crisis all over the country. There are many examples of this system breaking down, in Connecticut, in Florida, in Indiana, in Ohio, in New York and all over the country.

The agency that sued New Jersey has sued many other systems. In preparing this testimony, I did an Internet search of the last 30 days of news. I submitted the words "foster care" and "death" to find only those cases where a foster care situation could have resulted in a child death and horribly there were 321 hits. These tragedies are occurring in Utah, in Missouri, in Michigan, in North Carolina, in California, in Florida, and across our country.

We in CWA believe that the problems that result in children being in foster care and sometimes in custody are complex and we know that the solutions are expensive and difficult. But as a society, we need to address and move to solve the horrific problems that lead to child deaths and child abuses, because children are our most vulnerable citizens and our most precious.

Having said that, I want to address some of the problems specific to New Jersey's Division of Youth and Family Services (DYFS) if we are to solve them. It has taken nearly two decades for things to get this bad at DYFS. This agency has been consist-

ently and grossly underfunded. This agency has suffered budget and staffing cuts despite the reality that caseloads were and are growing and more children need our protection. Caseloads have increased by one third over the past decade at the same time that the turnover rate for workers hovers at 9%. This is unacceptable and can only mean more tragedies.

Despite the reality that children suffer in every State of our great Nation, other States have made reforms that did NOT happen in New Jersey. And as a result, caseworkers are working without the basic resources they NEED to do their jobs well.

### **What are the Conditions in New Jersey?**

*We have a computer system from the stone ages.* And the millions of dollars that were allocated for a new system to serve 50,000 DYFS families was turned over to purchase one for the 1,200 families involved with the Children's Initiative, a special initiative by former NJ Governor Whitman designed for families with means that have children with mental health problems.

*New Jersey didn't give DYFS workers the safety tools and structured decision-making they need.* These tools were in place in other States for years. Some of them have been put in place in New Jersey over the last few months, but there was no vetting by the workforce and no significant input from the workers or the union. Many workers continue to criticize the tools they are being asked to use as not appropriate or tested.

*New Jersey didn't give workers the latest training. They need it.* DYFS training involves 21 days of "new worker training" and then very little else. There is very little continuing in-service training and there are no incentives for workers to pursue graduate education on their own. Additionally, the union believes that all workers should have some time in a District Office learning protective services work before moving exclusively into foster care or adoption units.

*New Jersey didn't recruit any significant number of additional foster parents successfully.* Recruitment of foster families was essentially turned over to faith-based and private non-profit groups during Governor Whitman's era of privatization. This program, considered a panacea, has failed to recruit any increase in foster homes and our foster home experts say that it has resulted in the recruitment of many inappropriate foster homes.

*New Jersey didn't cap caseloads.* The Child Welfare League of America says that caseworkers handling intake cases should have no more than 12 families on their caseloads. We have intake workers with as many as 100. The CWLA says that caseworkers handling adoption cases and out of home placement supervision, should have no more than 15 children on their caseloads. The caseworker in the Collingswood case had more than double that.

CWLA says that caseworkers supervising children in their homes should have no more than 25 children on their caseloads. The worker, who repeatedly went out to try to see Faheem Williams, the little boy whose tragic death this past January made national news, but failed to do so, at one point had 106 children on her caseload.

In the Collingswood case and in the case of adoption generally, there are severe systemic issues that contributed to this tragedy that must be solved. Let me be clear—the firing of 9 workers will not solve ANY of these problems. Not a single one.

### **What Keeps Going Wrong?**

*Caseloads are too high.* In this case, the inexperienced caseworker had more than double the number of cases she should have had.

*Not enough staff and turnover is too high.* In 1999, the Child Death and Critical Incident Panel and the Governor's Review Panel both said, "lack of staff is a major problem." And, if we think that it's hard to find and keep good staff at DYFS now, just imagine the impact that criminal prosecution of any DYFS worker will have on the ability of the agency to hire.

*Supervision is compromised.* In this case, the caseworker's immediate supervisor was overseeing TWO units of workers who all had excessive caseloads.

*There is a fractured system of communication.* It is not clear that there was appropriate communication between all of the parties. And the basic DYFS policy on foster parents is that they are "colleagues" and that DYFS is NOT "investigating" them.

*Lack of sufficient, quality foster care homes.* As a result, children are placed in homes like this one with many other children or homes that are compromised in some way. DYFS is currently proposing limiting the number of foster children in a home to three, which will make the problem of available placement worse, not bet-



ter. CWA made a proposal more than three months ago to recruit quality foster parents out of the ranks of organized labor. In spite of wide spread interest through the New Jersey Labor Movement, the State of New Jersey has yet to even meet with us on this proposal.

*Inadequate follow up after adoption.* There is no requirement for any DYFS contact with children of subsidized adoption once that adoption is final. And there is no mandated schedule of medical care for children post adoption.

Much has been made and said about what workers saw or did not see in the Jackson home in Collingswood. And we do not know the answer to that question because we have not seen a single document in the case, not one. But we do know that there was not one person sent into that home to see those boys. DYFS was in that home to see the little girl named Breanna, who was a foster child to the Jacksons. She was the only child in that home who was under DYFS supervision. She was the only child with an open case. It seems clear—DYFS should be following up on adoptions.

*Home schooling creates gaps.* Nearly 20% of all abuse cases are reported by schools. When children are outside the school system, extra protections are critical.

There are no home schooling regulations that would require home-schooled children to see anyone from the public education system.

There is no cross-referencing with the Department of Education to look for children who are in the “system” but have not been seen by anyone.

And finally, there is no requirement that shut off notices of electricity, gas or water be sent to DYFS for State supervised homes or homes with subsidized children. In this case, the electricity in the home was off for months. This is unacceptable.

These are systemic failures and we need systemic reforms. Caseworkers do not kill children. Caseworkers do not abuse children. We will keep having tragedy after tragedy if we don’t fix the system.

We offer these solutions, which we call the *CWA Five Point Plan*.

Point 1: *We must hire considerably more staff.* We need caps on caseloads that meet Child Welfare League of America standards. We believe that Congress should adopt those standards, so that vulnerable children in every State have a fighting chance. There is no way of knowing how caseloads directly impacted the Collingswood case, but we do believe that the size of caseload had a direct impact on the Faheem Williams case, the little boy found dead this past January.

Point 2: *We need many more substance abuse services and treatment programs.* A huge percentage of abuse and neglect cases involve substance abuse in the home. There are not enough placements available in treatment facilities and too often treatment involves a couple of days of detox—not nearly enough to help someone recover from addiction. More substance abuse treatment would mean more reunited families, less foster care and fewer needed adoptions.

Point 3: *We need many, many more quality foster homes.* New Jersey should take CWA up on its Labor Foster Care proposal and it would be wonderful if Congress could find ways to provide more incentives and recognition to those families that step up to the plate and help by becoming foster parents.

Point 4: *We need more training and better technology.* We are glad that New Jersey is finally implementing the standard child welfare information system—SACWIS. We need more training for our staff and it should be ongoing training and continuing education.

Point 5: *We need both accountability and respect.* Much has been said about “holding people accountable” for their actions or failure to act. We believe in accountability. But accountability must mean that the *appropriate* individuals are held appropriately accountable for those actions that they *individually had control of*.

Firing workers who had little to do with a case, or who realistically could not have known what was going on, is not accountability. If the system is designed to discourage curiosity or further investigation—because it encourages a “collegial” relationship between workers and foster parents and not one that would promote investigation OR because the sheer volume of the workload makes further investigation or supervision improbable—then the system itself must be changed. It is unfair to workers and ultimately harmful to children to require or demand such “accountability” retroactively.

Reacting to a crisis by firing people indiscriminately encourages the workforce to believe that there is no real accountability—there is merely retribution.

Finally, I ask that you respect and honor the people who do the most difficult job. Our members knock on unknown doors, in the most dangerous neighborhoods in New Jersey, in places the police do not venture without backup. They do it alone and they ask the people behind those doors to “Let me see your children.” They spend their worklives looking at babies and children with bruises, burns, welts, bro-

ken bones, unimaginable sexual abuse and some of the worst cases of neglect that can be imagined. These workers have been held hostage, choked, beaten and threatened in the carrying out of their work.

Even when there are individual and/or systemic failures, New Jersey does these professionals a terrible disservice when we publicly attack them. The workers at NJ DYFS have dedicated their lives to protecting and serving children and families and when they are characterized as “incompetent, uncaring or indifferent” as the Commissioner of Human Services in New Jersey has done, the credibility of the entire workforce is damaged, their morale is devastated and the work of protecting children is compromised.

There are real systemic solutions. Our union wants to participate in implementing them as quickly as possible. Our members, who engage in Child Protective Services, are by and large, unsung heroes and we, in CWA, honor them.

I thank you for the opportunity to testify before this Committee today. My colleague, Paul Alexander, and I are happy to answer any questions you may have. Thank you.

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Chairman HERGER. Thank you, Ms. Katz. Now Ms. Marcia Robinson Lowry, Executive Director of Children’s Rights, to testify.

**STATEMENT OF MARCIA ROBINSON LOWRY, EXECUTIVE DIRECTOR, CHILDREN’S RIGHTS, NEW YORK, NEW YORK**

Ms. LOWRY. Thank you, Mr. Chairman, and thank you, Members of this Subcommittee, for holding this hearing, and particularly thank you for inviting me to testify. We really appreciate the opportunity to talk to you about what is going on in New Jersey and also what is being reflected around the country.

My organization, Children’s Rights, is a nonprofit organization based in New York that advocates on behalf of abused and neglected children around the country, both by bringing lawsuits and by having a very active policy department that issues reports on critical issues. We currently have seven States’ child welfare systems under some form of court supervision and are actively litigating in one other.

We do not have for you the facts about this particular family. We do have the facts about this particular system. What the panel should be aware of is that the problems in New Jersey did not, as other speakers have said, begin overnight. In 1997, the system was bad enough that former Governor Whitman convened a blue ribbon task force which found basically that everything that could go wrong in the child welfare system was going wrong. In 1998, the Governor did not, in fact, respond to the findings in this report. In 1999, my organization brought a lawsuit against the State because we were convinced that the State was not going to take action to remedy these problems. In fact, Governor McGreevey, in settling the lawsuit, said that the reason the money was now going to become available and the reforms that we think will take place in New Jersey are going to take place is only because the lawsuit was filed. That is, in fact, how children are getting protected all too often in this country.

What we learned about the child welfare system as we were proceeding toward trial, which the public didn’t know because the State wasn’t maintaining the data, was that 1 in 10 foster children in that State was abused or neglected while in foster care, while in government custody. Twenty percent of the children who left fos-

ter care either to be returned to their own families or to be adopted reentered foster care because they were not in safe situations. Caseloads were over 80, and as you heard from Ms. Katz just a minute ago, there was no functional computer information system. That is why we brought the lawsuit.

The State defended this lawsuit vigorously until the death of Faheem Williams, the 7-year-old boy, in January of this year, maintaining that they had a good system, wasn't really that bad. They would have continued to do so had there not been an incredible media blitz based on the young boy's death and on the fact that we were providing to the media our expert reports about the failings of this system.

The lawsuit was settled and has both short-term and long-term provisions. In the short term, Governor McGreevey agreed to immediately make available \$30 million additionally for additional workers and for supplies such as cell phones, access to cars, things like that, and \$1.5 million in additional foster home recruitment funds. The reason that the additional foster home money was because the State was also required to do immediate safety assessments on all children in custody. We knew from the abuse rates in care that it was likely that there were other children in addition to Faheem Williams who were in serious danger. So, we wanted the State to immediately do safety assessments on all children. Unfortunately, the State did that, and the Jackson family actually passed the safety assessment, which is why you heard from Ms. Maguire that a large number of them are going to be redone, and redone with independent people. That is why we also required the State to come up with additional foster home recruitment because we anticipate that many more children are going to be taken out of their homes.

Over the long term, there is a 6-month planning process with a group of experts that a plan that emerges from that will be court-ordered and will be under the supervision of a Federal court, and there will be monitoring with enforcement powers in the Federal court.

Now, why is this necessary? Congress has passed a number of statutes, most recently in 1997, the Adoption and Safe Families Act, which was intended to address two really important situations: one, the fact that children lingered far too long in foster care without getting adopted; and two, it was unclear whether children's safety was really supposed to be paramount. That legislation made clear that that is what Congress intended. However, what has happened with regard to that statute, it is being honored in an extremely uneven way, and that is why what I am going to recommend to you today that you do something about it.

We were glad to have the opportunity to address this Subcommittee on what Congress could do about these awful situations. They are not unique to New Jersey, as I am sure you realize. Many of us remember the name of Rilya Wilson, the little girl who has disappeared from the Florida foster care system. We are actively litigating in another jurisdiction where only today the State has announced the takeover of four county offices because children are in danger in that system.

Now Congress, did, in fact, require that there be Federal reviews of these systems. Every State that has had a Federal review, and thus far there are 38 reported on, has not passed the Federal review. Now what difference does that make to the State? Almost nothing. We are taking depositions now in one of our cases which failed its Federal review, failed it badly, and has also its own State reports on how dangerous that particular system is, and it has a program improvement plan which is required by HHS. Nobody is paying any attention in that State to the program improvement plan, and the accountability measures and outcome measures in that State are declining, and nothing is happening.

One of the key people responsible for implementing that program improvement plan in that State testified in a deposition a week and a half ago that the State didn't have to pay any attention to the fact that they were failing on the program improvement plan and not meeting their own guidelines because nobody was going to do anything until a 2-year period had ended. In fact, nobody is doing anything to them, except that there is now a lawsuit against them, and we are going to document these problems and bring them to court.

What would I ask this important group to do? What can you do? There is something very real that you can do. You pass good legislation, presumably you want it enforced. Do you want it enforced the same way New Jersey is enforcing it? It is a good thing to increase the number of adoptions. Are we happy with what we know about the adoptive family that these four little boys and this fifth little girl were going to go into? I would guess not. If you want to do something about protecting children, instead of having States tote up higher numbers and get Federal incentive payments, I would suggest you haven't gone far enough.

I understand the importance of allowing States to make their own decisions and allow for local variations about ways to do things. It is obviously a very important good government principle.

Chairman HERGER. If the witness could conclude her testimony.

Ms. LOWRY. I would ask you to consider legislation that mandates minimum standards in the States with regards to applying the Federal law; minimum standards with regard to such things as caseloads, worker qualifications, training, the frequency of visitation of workers with children, and a system of accountability or some quality assurance system so that you can have some sense of security that, in fact, the States are applying your statutes in the way that I am sure you intended. Thank you very much for the opportunity to address this group.

[The prepared statement of Ms. Lowry follows:]

**Statement of Marcia Robinson Lowry, Executive Director, Children's Rights, New York, New York**

My name is Marcia Robinson Lowry and I am the Executive Director of Children's Rights. Children's Rights is a national non-profit advocacy organization dedicated to promoting and protecting the legal rights of abused and neglected children. I want to thank Chairman Herger and other Members of the Subcommittee of Human Resources of the Committee on Ways and Means for providing me with the opportunity to testify today.

As Executive Director of Children's Rights, I have overseen class action litigation in over 12 jurisdictions across the country, including New Jersey, seeking to vindicate the constitutional and Federal statutory rights of children under the care of

public child welfare agencies. These are, more often than not, poorly managed and inadequately funded agencies that are rarely held accountable for their chronic failures. As you know, of the dozens of states that have been audited for their child welfare performance by the Administration for Children and Families (ACF) in the recently implemented Child and Family Services Reviews (CFSRs), not one has passed.

I appreciate the opportunity to address this Committee and detail the current situation in New Jersey and across the country that will continue to produce child welfare tragedies such as witnessed recently in Collingswood, New Jersey, as long as Federal child welfare statutes are not strengthened and enforced.

As you are probably already aware, Children's Rights filed a lawsuit against the New Jersey Division of Youth and Family Services (DYFS) in 1999. That lawsuit was filed after years of attempted reforms of the child welfare system in New Jersey had failed—blue ribbon reports and concerted efforts by local advocates had effected little—if any—change in a child welfare system uniformly seen as dysfunctional and failing. Our lawsuit detailed a host of serious problems that required immediate attention to ensure the safety and well-being of children in the New Jersey foster care system. The class action on behalf of the over 12,000 children in foster care in the State of New Jersey was certified by the Federal court last year.

The lawsuit was met by stiff opposition and resistance by DYFS—that is, until the discovery of the death of Faheem Williams and the deplorable condition of two half-starved brothers in January of this year. DYFS faced, under intense media pressure, the horrific consequences of having essentially “lost” these children in its system, failing to protect them despite being placed on clear notice that the children were at considerable risk of harm. At the same time, independent experts retained by Children's Rights to examine the safety practices of DYFS, delivered the devastating results of their review of state data and hundreds of randomly selected foster children's case records maintained by DYFS. Concluding that children in foster care in New Jersey were simply not safe, they found that:

- Over one in ten foster children in New Jersey are abused and neglected in foster care;
- Foster children supervised by the Adoption Resource Centers were over three times more likely to be abused and neglected in their foster homes than other foster children;
- 20% of foster children had ping-ponged back into foster care at least once from a failed reunification or adoption; and
- Many caseworkers carry caseloads well over 80 children, when the national standard calls for a caseload of 15 to 17 children (12 children for adoption workers).

Under increasing public pressure to address the undeniable dangers that children in the New Jersey foster care system faced, DYFS entered into settlement negotiations with Children's Rights. An agreement was signed by all parties on June 23, 2003, and on September 2, 2003, Judge Stanley R. Chesler of the United States District Court in Trenton, New Jersey, approved the settlement agreement that for the first time mandated sweeping reforms of the New Jersey foster care system.

In the settlement, the State agreed to both emergency and long-term reforms aimed at protecting children, all under the oversight of an outside panel of experts and the Federal court. Under the Settlement Agreement, \$30M in emergency State funds have already been appropriated for additional casework staff and needed supplies such as computers, cell phones and cars, and every child in foster care—including some 4,000 children placed with families supervised by DYFS's Adoption Resource Centers—is being individually assessed to be safe or removed from an unsafe foster home. Additional reforms will include the re-training of all casework staff and the elimination of barriers to hiring experienced staff, the belated implementation of a Statewide-Automated Child Welfare Information System (SACWIS) allowing the proper tracking of children, foster homes, and case progress, and the resurrection of a defunct Quality Assurance function for continuous internal review and assessment of the State's child welfare case practice.

Meanwhile, though, the number of reports of child abuse and neglect in the State has risen dramatically this year and caseloads have actually increased. The State was also just penalized \$6.2M in Federal funds after failing a second audit of its Title IV-E claiming for Federal foster care matching funds, due to placing foster children in unlicensed homes or facilities, and failing to document the children's legal status. Clearly, reform is a long-term proposition, and Children's Rights will be actively monitoring the progress of the court-ordered reforms.

This is the context in which the latest scandalous oversight of the New Jersey child welfare system needs to be understood. While aberrant mistakes can occasion-

ally be made in any child welfare system, egregious oversights are highly predictable in an underfunded and mismanaged agency such as DYFS in New Jersey. Caseworkers are overwhelmed with too many children to monitor and an insufficient number of foster homes and few supportive services for foster children. They are poorly trained and supervised. Staff has not been given adequate tools to track children, their needs, and whether they are in safe placements. Without such accountability, the State cannot assure the safety of the children in its care.

In the Collingswood case, over the course of the last two years, caseworkers visited the Jackson home dozens of times—a home in which four already adopted children were apparently being starved, so badly malnourished that their tiny sizes masked their true ages. The caseworker reportedly did not question the children's condition or refer any concerns for further investigation. Nor did an emergency safety assessment of this foster home by DYFS in July, mandated by the Children's Rights settlement because the family was caring for a DYFS-supervised foster child who was also slated to be adopted by the family, identify any safety concerns.

In the case of the children adopted and then apparently mistreated by the Jacksons, the agency failures fall squarely into two categories:

1. An inadequate assessment of the Jacksons when they applied to adopt—that is, a failure to carefully consider their psychological status and parenting abilities, which, even if not evident at the time of the boys' earlier adoptions, were certainly apparent when the child in foster care was most recently placed with them pre-adoptively.
2. A failure to adequately conduct a safety assessment on behalf of the child in foster care who was placed with them—an assessment which should have included an evaluation of the home environment and any and all health and safety issues affecting all children in the home. Had such a complete assessment been conducted, the terrible circumstances under which the four adopted boys were living would have become obvious.

None of this happened, however—why not?

First, it is clear that DYFS currently lacks the capacity on its own to conduct valid and credible safety assessments. Its caseworkers, as a group, lack the skills and the time to appropriately assess the risk of harm to children and the threat of imminent danger, and they do not have the skills, the time or the supervision needed to take appropriate protective action to ensure the safety and well-being of children for whom DYFS is legally responsible. For this reason, the state is seeking independent professionals to make in-person visits to thousands of children for whom emergency safety assessments under the Children's Rights settlement must be redone. This issue, obviously, raises the larger question of capacity-building within DYFS itself to ensure that in the future, DYFS staff do indeed have the skills to assess the safety of children and to ensure that the results of their safety assessments can be relied upon with confidence.

Second, supervisory and administrative accountability within DYFS is critically lacking. The failure to detect and respond to the alleged abuse and neglect of the children in the Jackson home cannot solely be attributed to the caseworker's inadequate assessment and response. That individual had a supervisor and that supervisor was accountable to higher-level administrative staff who also have responsibility for the quality of safety assessments and for ensuring that action is promptly taken to protect children in foster care. Clearly, substantial work is needed within DYFS to develop and implement strong supervisory and administrative processes that monitor and ensure the quality of casework practice.

It is these two areas of unacceptable practice on which we must focus. Nationally, there are 600,000 abused and neglected children in foster care custody. As you know, the Federal Adoption and Safe Families Act of 1997 was enacted with two laudable goals: to speed the placement of these foster children into permanent homes and to prioritize child safety at all times for children under the care and supervision of state child welfare agencies. For FY 2002, New Jersey in fact qualified for the second largest financial incentive award in the country under the Act (\$1.9M), due to its significant increase in the number of adoptions it completed. This is a positive development if the homes are being screened and chosen appropriately in each child's interests, rather than solely in the state's interest in showing compliance with a Federal statute.

We must demand that DYFS, and every child welfare system in the country meet the highest safety standards for children in foster care. It has been suggested that the Collingswood case demonstrates the need for some focus on post-adoption monitoring. The truth is that too many states, certainly including New Jersey, cannot even do an adequate job of monitoring children while they are in foster care. It would indeed be a mistake if instead of focusing our energy and efforts on critical

safety issues, we instead began to question the viability of adoption as a permanency option for children in foster care; to question the vital role of adoption subsidies in making possible the adoptions of thousands of children in foster care each year (a role that adoption subsidies have played since 1980); or to question the commitment and love with which tens of thousands of adoptive families have embraced children in foster care, giving them the nurturing, stability and hope that they otherwise would not have had.

We know that adoption “works” for children in foster care. We know that adoption subsidies are a critical adoption resource. It is important to recognize that subsidies typically do not even cover the basic expenses of raising a child—a fact that undercuts the argument that families adopt “for the money.” Nonetheless, subsidies provide an important support for families who adopt children with special needs because they defray some expenses and because health insurance coverage accompanies subsidies. Finally, we know that with the exception of a few disturbed adoptive families like the Jacksons (who should have been screened out of the process in the first place), families who adopt children with special needs from foster care are strong, healthy families who contribute to their children’s lives and to their communities. Upon adoption, they socially and legally become “just like” other families. To treat these families as “second class” citizens who need continuous monitoring and oversight would not only deprive them of their constitutional rights—a matter of not insignificant importance—but would create a system of government intrusion very likely to discourage families from stepping forward to adopt the now 126,000 children in foster care in this country for whom adoption is planned.

The agency failure in Collingswood was not a failure to supervise adopted children as has been suggested. It was a failure to properly screen and match the Jackson family with foster children they could handle, and then a complete failure to adequately re-evaluate the family—including the children in it—before repeatedly approving them to adopt those foster children. Since adoptions are meant to be permanent, before the child welfare agency signs off on an adoption the child’s safety and well-being in the home need to be evaluated and assured. Standard social work practice (and, in New Jersey, state law) requires that every member of the household be part of that evaluation. Any concerns must be fully explored and resolved. Only upon such a complete evaluation, if positive, should an adoption be finalized. Once finalized, however, the family is and should be considered legally indistinguishable from any other family. Children are entitled to be considered equal members of the family, and not subject to the conditions of further agency review.

As children’s advocates, we deeply appreciate the interest of this Committee in the situation in New Jersey, and its concern about abused and neglected children. I would like to suggest positive actions that Congress can take to protect the well-being of these children. Congress has already passed legislation several times, beginning in 1980 with the Adoption Assistance and Child Welfare Act, and most recently in 1997 with the Adoption and Safe Families Act. This legislation is directed at ensuring that children are safe, that they do not remain in state foster care systems indefinitely, that they are treated appropriately while they are in state foster systems and that they grow up in permanent families, either their own or new adoptive families.

However, in this legislation Congress has given the states only the broad outlines of its desirable public policy goals and then left the states on their own to comply with those broad outlines. But by now Congress should realize that far too many states are either not meeting even those broad outlines or, when they do, for example, raise their adoption numbers, are doing so by including many clearly inadequate families, as the Jacksons appeared to be, along with the genuinely committed loving families who want to make a home for these children, just to “succeed” by boosting their numbers.

If Congress wishes to really protect these children, to make the broad outlines of its child welfare statutes meaningful instead of a cruel hoax, and to ensure the best possible utilization of billions of Federal dollars, it will also impose minimum standards in such areas as job qualifications, worker training, caseloads, and systems of accountability on these child welfare systems. With Federal money the states can either save or destroy young lives. We are destroying far too many. If you are appalled at the stunted bodies of the boys in Collingswood, and if you remember the mummified body of 7-year-old Faheem Williams and his starving brothers discovered in a New Jersey basement in January, you will consider mandating minimum standards for the operation of any child welfare system that has the lives of these young children in its hands.

Thank you for this opportunity to present these thoughts to your Committee.



Chairman HERGER. I thank you, Ms. Lowry, for your testimony. I want to thank each of you for your testimony. I have been very generous on the time, and we have gone considerably over on each of our witnesses. That is due to the incredible seriousness of this hearing. Our purpose here today and the reason we have invited those who we feel are closest to the issue in New Jersey is to try to get the facts out so that we as a Congress representing the concerns of innocent children that are within your jurisdiction, and not only in New Jersey, but all 50 States, that we do everything we can to ensure that these innocent children are taken care of in the best way that we can—and that we eliminate as much as possible all abuse.

Before I get into my question, I do want to recognize another Member of the Committee on Ways and Means who is sitting with us on the panel, Mr. Mark Foley. Without objection, he will sit with us.

If I could just open up the questions just with a yes or no answer as much as you are able to, again those of you who are closest to this issue, if I could ask based on your professional or personal opinion, were the Jackson boys abused? Ms. Maguire?

Ms. MAGUIRE. Yes.

Mr. RYAN. Yes.

Mr. SARUBBI. Yes.

Reverend THOMAS. No.

Ms. KATZ. We have not been given enough information to make that determination.

Ms. LOWRY. It seems likely, but I agree we don't have all the facts.

Chairman HERGER. Thank you. With that, we open up for questions. Mrs. Johnson.

Mrs. JOHNSON. Thank you. I was first elected to the legislature in the seventies as a State senator. The first national hearings on foster care were held. I was on this Committee when we passed the first round of foster care reform legislation. I have been deeply involved in reforming the independent living program. My State has been subject to a suit, and I see how court monitoring does and does not make a difference, and all the resources it puts in place that are helpful, and those that it squanders. So, I have one short question to ask of Reverend Thomas, and then I would like to ask Ms. Maguire a question. Reverend Thomas, did the four boys cited in this suit attend church regularly?

Reverend THOMAS. They attended church regularly.

Mrs. JOHNSON. Were, all but the one, the oldest, well behaved?

Reverend THOMAS. Extremely well behaved.

Mrs. JOHNSON. You had no reason to suspect, even though they were very small and very skinny, that there was any other problem other than an eating disorder?

Reverend THOMAS. No. They were always well dressed.

Mrs. JOHNSON. They did come with the rest of the family?

Reverend THOMAS. Absolutely. We keep church records, and I looked it up, and it was approximately 67 times in the past 2 years, about 60 percent.

Mrs. JOHNSON. Ms. Maguire, I am interested in the long run and how you select foster homes and how you oversee them and



how you keep track. Clearly what your testimony lays out in spades is the same testimony that has been laid out for two decades. This is the hardest job there is to be a protective services worker. It is very hard to be a teacher in our urban areas, but to be a protective services worker where you are dealing with very difficult children and families, it is the hardest job there is. It is true that the cases when they go bad are the most spectacular, and heads roll because that is all we know how to do.

I agree with many of the comments that were made that this is the quickest way to discourage the quality of people we need in the foster care and child protective services from wanting to serve.

I am impressed, Mr. Sarubbi, with the number of people you have, but you see, it really didn't make any difference. It is after the crime that you matter. It is irrelevant. We want to prevent the crime. So, I want to know, and I hope this Committee will look at best practices, I want to know what are we doing to support foster families. Do you have any mandatory meetings for children in foster care? Do we have any compulsory requirement that they be brought to certain child support situations so that if there is a problem, they can talk about it, because they have different problems than ordinary children. They have two families.

I want to know a little bit more, and I know you don't have much time, but in the long run I am interested how you recruit foster families, how you support foster parents, how you support foster children, and how you prevent out-placement of children into foster care.

So, it is the whole systemic issue we have to face here, and certainly lower caseloads is absolutely crucial. We can make—the idea that we would lay another level of bureaucracy on you or even another office without looking at the obvious blatant problem of caseload is really just too ludicrous to entertain. Your lack of training, ongoing training, the lack of integration of protective services training and foster care training and any other kind of training, we need to hear from you new views, new thinking. I don't want to hear the same old stuff. I have heard the same old stuff, the same old accusations and problems.

How are we going to use what we have learned in medicine, for example, support groups, family resource centers, to bring families together? Are we using them at all? Is there any mandatory requirement that foster children attend the local resource center play sessions? What are the resources in the community that are already there that we can require people with foster care children to participate in?

The same is true of kinship care. I would like—I know we have thrown out a lot, and we only have 5 minutes to question, but we need new thinking. You think we are going to legislate the same way the State is responding to this? We can't afford to do that.

Ms. MAGUIRE. Your points are very legitimate, and the truth of the matter is the New Jersey system does not do those things that you suggest. One of the work groups that we have currently engaged that involves foster parents, other community members as well as staff is a resource family group to do precisely what you are doing, to plan a set of standards, a set of values about how we do value foster parents. We don't do that well at this point. It is

to develop strategies to include them in a far different way that includes them not only in participating as a team member for the planning for the children under their care, but also in support of them.

I have never understood, quite frankly, why we don't treat foster parents like we do natural parents who have accepted children into their homes.

Mrs. JOHNSON. Be thinking about it, because maybe we will have a hearing on those kinds of progressive ideas.

Chairman HERGER. The gentlelady's time has expired. The gentleman from Maryland Mr. Cardin to inquire.

Mr. CARDIN. Let me thank all of you for your testimony. The first way to correct the situation is acknowledge you have a problem, a serious problem, and, Ms. Maguire, I compliment your acknowledgment of the problems in New Jersey, which, again, is not unique to New Jersey. As the testimony has indicated here, particularly from Ms. Lowry, this is a problem that is being confronted in many parts of the country, if not in every system.

I am concerned, though, as you pointed out, New Jersey conducted safety assessments in foster homes before the Jackson children were discovered, and 14,000 plus homes had been inspected, including the Jackson home, which got a clean bill of health. Now you are going to re-evaluate 6,000. I am curious as to how you selected the 6,000, and if you have the resources to do a safety assessment, because when you put a stamp of approval on a safety assessment, I think the public has a right to expect that, in fact, these homes have met your standards. Do you have the resources, and how did you select these 6,000?

Ms. MAGUIRE. Again, a very legitimate question. The safety assessments began in New Jersey for all out-of-home placements prior to the settlement of the lawsuit. At that time—and nowhere in the United States is there a safety tool that exists for out-of-home placements. There is a structured decision-making tool for children in their own homes, but none for out-of-home placement. We took a modified version of an in-home, tried to enhance it for purposes of out-of-home, and we began those reviews on June 2nd.

Mr. CARDIN. My question is how did you get to the 6,000 that are now being selected?

Ms. MAGUIRE. I am trying to get there, sir. Prior to the lawsuit, we had accomplished a number of safety assessments. When the lawsuit was settled, we changed that form yet one more time that drove the decision-making and the process of safety assessing. Six thousand children had already been assessed. We are going back over the ones we have done prior to the enhancement of the safety tool.

Mr. CARDIN. I appreciate that. Just for my own curiosity, was the Jackson family in that 6,000?

Ms. MAGUIRE. The Jackson family was assessed on June 6th. It is important to note that safety and assessing safety is a point in time, and that child welfare system needs to expand that.

Mr. CARDIN. I agree with you there, and I just point out that the public believes that when you do a safety assessment, that the children are safe, and that is not the case, I am afraid.

Let me move on if I might. Mr. Ryan, I would like your suggestion in regards to those families that have adoption subsidies, there is at least an obligation for us to make sure that the children are being treated properly, and having some type of a review on their health is a good suggestion. You might want to try to find out whether or not it would be too burdensome on the families and refine your recommendation. I think our Committee would be interested in following up on that.

Mr. RYAN. I would be happy to do that and submit something to the Committee.

[The information follows:]

The recommendation regarding adoption subsidy can be found in the Executive Summary of the "Jackson Investigation: An Examination of New Jersey's Child Protection System and Recommendations for Reform," which was released by the Office of the Child Advocate on February 12, 2004. The recommendation is to provide an array of post-adoption supports, including the requirement that families, who elect to apply for and are approved to receive an adoption subsidy, ensure that a physical examination is completed for each child annually by a State-licensed physician.

The report can be viewed in its entirety at [www.childadvocate.state.nj.us](http://www.childadvocate.state.nj.us).

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Mr. CARDIN. Reverend Thomas, I think we would be more sympathetic to your point if there was some evidence that in the last 4 years, the children had some medical attention. If you have a problem you can't deal with, you would think that you would have sought some medical advice. From at least what has been presented so far, there is no evidence that the children in the last 4 years have had medical attention, and this is very concerning, at least to me and, I think, to the public.

Let me move forward, I guess and try to figure out where we go from here. Nationwide tenure for caseworkers is under 2 years. Salary is \$33,000 on average. Is that adequate in order to get the type of people and the type of expectations for caseworkers that are taking care of America's most vulnerable children, and what do we do about it?

Ms. LOWRY. What we find in the systems that we have become involved in is it is not simply a matter of money, but the worse the system operates, the least likely it is to retain good workers. You have to make these systems work better. It is very often the case that there are private agencies providing services, and the private agencies pay less than the public agencies. The good workers go to the private agencies because most people want job satisfaction, particularly people in this field. When the agency insists on high case-loads, has no placements to put the children into, and doesn't provide any training, good workers leave. So, you have to fix the system if you want to have good workers.

Mr. CARDIN. I agree with you. Money is not the whole issue, but it is very difficult to understand how you can do the training and keep people with the types of budget supports that are out there today. Thank you, Mr. Chairman.

Chairman HERGER. Thank you. The gentleman from Kentucky Mr. Lewis to inquire.

Mr. LEWIS OF KENTUCKY. Thank you, Mr. Chairman. Mr. Ryan, can you give us more specifics about the medical condition

of the boys today? How they are doing? I think you mentioned they are gaining weight, but can you give us an update?

Mr. RYAN. Thank you, Mr. Lewis. I am especially thankful that you referred to them as the boys and not as a project. I don't begrudge advocacy on behalf of Mr. and Mrs. Jackson. I think that in some ways, Reverend Thomas' advocacy on behalf of them is a friend standing by them in a dark time. The public vilification of these boys, characterizing any one of them as a liar and describing them as a project, is despicable, and I think it needs to stop.

In terms of their medical condition, I think the boys are all making a very steady recovery. They are gaining weight. As the prosecutor indicated to you, that is simply because they are being fed. There is no magic medicine occurring here. These boys are eating and growing.

Mr. LEWIS OF KENTUCKY. Was there any evidence for any type of medical condition that caused an eating disorder at all as the Reverend made mention?

Mr. RYAN. My investigators have not concluded that that is a cause of their condition. As I indicated, there is 20,000 pages of documentary evidence to be reviewed. There are witnesses that my team is still talking to, and I think Mr. Sarubbi has a better sense of that than I do at this point because he is more invested in the medical component of the investigation than my team.

Mr. SARUBBI. It is true that some of the boys—one of the boys did have acid reflux, but my discussions with the physicians are it was easily treatable. It is a common illness that many of us suffer from, and with the right kind of medication and medical attention over a period of time, it is not something to cause you to be 19 years old and appear to be 10 years old in your stature.

In terms of the children's mental outlook, I can tell you that they have been meeting with the social worker at the hospital and the other facilities that they are at right now, and upcoming in the next month or next week, we expect that they are going to be going into some formal therapy sessions to help deal with their situations. Their outlook is good. They are positive. They enjoy their placement where they are at. My investigators have been interactive with Bruce on a regular basis, and he is pleasant and charming and has kept a positive attitude about this whole situation.

Mr. LEWIS OF KENTUCKY. I read somewhere that there was a lock on the kitchen door.

Mr. SARUBBI. That is correct. We actually found two locks. There are two entranceways to the kitchen, one that goes from the dining room, and the other that goes from the hallway. Both were locked. There is an alarm on the kitchen door as well and a sign that said, "Stop and think and pray before entering," which was a reference to the children going into the kitchen and getting food unsolicited or without approval.

Mr. LEWIS OF KENTUCKY. Mr. Ryan, let me go back to you. The income—the benefits that the Jackson family were receiving, were there other sources of income, do you know? Is there any reason why they couldn't have used other opportunities to get food for these children? There are food stamps, cash welfare benefits, dis-

ability benefits, unemployment benefits, and hopefully a food pantry at the church. Any reason why those kids were not fed?

Mr. RYAN. None that I can understand. I think one of the most frustrating aspects of the investigation is that it is very difficult to know what is in the heart of a person, and it is difficult to know what was in the heart of Mr. and Mrs. Jackson.

To answer your question directly, all of those public supports were available and more. New Jersey has the most comprehensive child health insurance program in the country that covers children up to 350 percent of poverty. Every one of those children was eligible for free public health insurance, and the public health insurance system indicates no hits against those boys in the last several years.

Mr. LEWIS OF KENTUCKY. Let me just say this: there is a lot of finger-pointing, but, listen, good parents, parents have to be responsible for their children, whether adopted children—I am an adopted—parent of an adopted child. The responsibility is with us to make sure our children are fed, they get good medical care, they get clothing. It is our responsibility. If we don't live up to those responsibilities, then we should be prosecuted to the full extent of the law. I know there is evidence out there that has to be looked at, but the bottom line, the responsibility is on the parents. I yield back.

Chairman HERGER. Thank you, Mr. Lewis. Now the gentleman from Washington to inquire.

Mr. MCDERMOTT. Thank you, Mr. Chairman. Ms. Lowry, we have a family that sounds like who got \$30,000 under the adoption subsidy program. Fetal alcohol syndrome is well recognized. There was a recent article, I guess, on Monday in the New York Times about further research that has been done in that whole area. These kids were clearly eligible for \$30,000. What seems to me that was missing was anybody looking at how that \$30,000 was spent in terms of dealing with these. Mr. Lewis is correct and the State is correct in that there is a health care system. There was nobody—they just handed the \$30,000 to these people and said, go on your merry way.

I would like you to take the rest of my 5 minutes to tell me what kind of a law you think we ought to pass with what kind of enforcement mechanisms to be able to stop this, because we are putting out the money. They got a good idea—the idea of adoption subsidy is a good idea. I instituted it in 1971 in the State of Washington. I would like to hear what you think needs to be done nationally, because sometimes the Congress has to act when States clearly—

Ms. LOWRY. I really appreciate you asking me that question because I think this case is so awful that it has raised a lot of somewhat confusing issues. What is really important is that we provide families for children, and when children in foster care get adopted, they should be members of that family just as Mr. Lewis' child is, I am sure, a full member of his family. We want people to realize that—we want the people to realize that they have the responsibility that the Congressman was talking about. We want the child to realize that this is really their family, not a pretend kind of family.

The problem in this case, and what I would ask Congress to think about, is not whether there was post-adoption monitoring, because if post-adoption monitoring had taken place in New Jersey, it would have been just as bad as the pre-adoption monitoring. Four children—almost five children were placed by DYFS in that family, children with problems, and the family had other children as well. Who is making the decision to place those children there in the first instance? When it came to the point that these children were going to be finalized, how is the decision made to turn these children permanently over to this family, at least after the first boy was there? There were children starving, malnourished, stunted growth. These were kids with problems. There were a lot of kids in the home, maybe too many under the circumstances.

The problem is before the adoption is finalized. I would urge you not to think that the answer is to undermine the permanence of an adoptive placement, but to insist the laudable, enormously important goal of giving children permanent families is made with careful decision-making. We are turning these kids loose. We should, but we should know what we are doing before we allow the State to leave.

Once again, it gets back to the quality of decision-making, to caseloads, to training, to accountability. Those are all critical issues. Congress says, please get more kids adopted. Right thing to do, but we don't want them to get adopted with a tick on a piece of paper. We want them to get adopted—

Mr. MCDERMOTT. Give me the minimum standards that ought to be in the Federal law.

Ms. LOWRY. Yes, Congressman. I think there really have to be, because we know by now that the States are running these systems with high caseloads, untrained workers. We know these conditions exist. It was fair enough to say to the States, here, we are giving you the money. Here are the general outlines of our public policy. You all implement this public group policy if you want to do it here, here and here.

What we know today, whatever happened in this case is not an aberration. We know this is happening in other States. So, we have already given the States the opportunity to set their own standards. They are not protecting these kids. So, I think it is time for Congress to take another look at the goals in the Adoption and Safe Families Act of 1997 to see whether you need to impose more strictures, loose strictures but more strictures, on the States and tell the States that your caseloads may not go below X. Eighty is not acceptable. I think everybody would agree with that.

Mr. MCDERMOTT. This woman had 38, but that is after. What about before? What should an adoption preparation worker have?

Ms. LOWRY. An adoption worker ought to have reasonable caseloads, ought to have training. The pressure in New Jersey is to get kids out of the system and count another adoption. Some of these kids really luck out, and they are incredibly wonderful families, but that is not being decided by the State. It is a matter of luck. Whether or not children are safe and are getting good families should not be a matter of luck. The State ought to have the capacity to make those decisions. If you don't have the basic tools, if you don't have workers which have training, which have supervision, if

the system doesn't have accountability that workers are going to have their decisions reviewed higher up within the agency, if you don't have a quality assurance system, you have a whole atmosphere in which nothing matters.

We have case records from the State of New Jersey in which there are notations children are abused in foster homes. The abuse is not substantiated because there is no place to put the kids if they have to remove the kids, and the notation on the record says, well, this is another case of business as usual. The States should not be allowed to do business as usual that allows kids to get abused, and I think the only answer to it from a Federal level is to say you can't run the system if you are below certain minimal standards. I don't mean the best standards. I mean certain minimal standards. I don't know what they are today, but smart people can figure them out.

Chairman HERGER. I thank the gentleman from Washington Mr. McDermott. Now the gentleman from Pennsylvania Mr. English to inquire.

Mr. ENGLISH. I thank you, Mr. Chairman. I must say as I have listened to this testimony, this has been as extraordinary a hearing as I have attended in my service in Congress, and it is stunning to think that these things are happening in the United States in some of our relatively affluent communities and apparently that this is not an isolated incident.

Ms. Katz, during your testimony, you cite various reasons why caseworkers in New Jersey are unable to perform their jobs. You also state that the State didn't give caseworkers the latest training. The thing I am grappling with is we have heard testimony to the effect that there were 38 visits to this home over the previous 4 years. Is it a function of the fact that the workers were poorly trained that they failed to note that a 19-year-old only weighed 49 pounds.

Ms. KATZ. One of the things that I tried to talk about is two different types of systems that DYFS has. Protective services and adoption in foster care are essentially separate systems. The caseworker that visited the home, the most amount of those 38 times, the 38 represents a number of different visits over 4 years. This worker was on the job 2 years, 26 years old, her first job with the agency.

There is no training in protective services mandated for workers that are going into the Adoption Resource Centers. That caseworker had no training about what to look for. It is the union's belief that all workers that, before they go into foster care or adoption units, spend a year in a district office doing protective services work, learning what to look for and what to see. We haven't seen the records. We haven't been given any documents, which is unusual, but I believe that this particular caseworker was seeing what the members of the church were seeing, what the neighbors were seeing, and believing that this foster home was an appropriate home.

It had been approved for adoption over and over and over and over; had been approved as a foster care home over and over, and the family was lauded in the community.

Mr. ENGLISH. Ms. Katz, you also noted in your testimony that because home schooling was involved in this home, that the children were not subjected to the kind of oversight that they might have had in a public school setting. I guess my question for you, or for Ms. Lowry: is there any empirical evidence to suggest that the risk of this sort of incident is greater in a home-schooling setting? There seems to be a lot of empirical evidence to suggest that home-schooling families disproportionately are strong in certain other areas. Is there some reason to believe that home schooling is part of the problem here?

Ms. KATZ. Well, let me comment, and then—what I was testifying to is that home schooling creates gaps. In New Jersey, nearly 20 percent of the abuse cases are reported by schools. I come from a family of all teachers, elementary schoolteachers, and because they see children every day, they get to know them well, especially young children, and that is a very large source of information going into the system that there may be abuse, that there may be neglect. When kids are outside the school system, it seems you need extra protections.

It is not that home schooling causes the problem, but it creates a gap. Other States, New Jersey is not one of them, have regulations about children needing to be seen and tested by their public education system.

Mr. ENGLISH. Ms. Lowry, if you want to comment on that, I would welcome it, and while you are at it, you had cited a class action lawsuit and that around 4,000 children placed in New Jersey foster homes are being individually assessed. What are the results of those assessments, and how many children have been removed from unsafe homes to date?

Ms. LOWRY. When the first round of assessments was concluded, which was about 3 weeks ago, prior to this Jackson case, only 31 children had been removed. Frankly, we had some serious question about that, but no basis on which to question it. Given our data that the rate of abuse was so high, it seemed unlikely that only 31 children needed to be removed.

The new assessments have just started, so we don't know how many children are going to be removed this round. We expect these assessments will be better. In fact, we are going to ask the State, if the removal rate turns out to be very high, if the assessments turn out to be very faulty, as this one may have been, we are going to ask to have all of the homes reassessed, not just these that were done, because that 31 number seemed awfully low to us.

On the home-schooling issue, I think that the very important point was made, which is that New Jersey has very, very few requirements with regard to home schooling. So, frankly, I wonder, given what else we know about this family, whether the kids who were home schooled got any education at all. I suspect they didn't get very much.

Mr. ENGLISH. Thank you. Thank you, Mr. Chairman.

Chairman HERGER. Thank you very much. The gentleman from California Mr. Stark to inquire.

Mr. STARK. Thank you, Mr. Chairman. I apologize to the witnesses for not being here at the beginning of your testimony. I have



tried to glance through it to get up to speed. Mr. Sarubbi, am I pronouncing that correctly?

Mr. SARUBBI. That is pronounced correctly. Thank you.

Mr. STARK. In New Jersey, as I think we do in California and many other States, the law would require, say, a teacher in a public school to report a case of child abuse or serious mistreatment or illness. What is the law generally in New Jersey? Is there an obligation to report this kind of thing?

Mr. SARUBBI. If they believe that there is a problem there, yes. I think with our schools there really is a requirement on an annual basis that children be examined by a physician.

Mr. STARK. If a teacher saw, say, in third grade, saw a kid coming in with a black eye or a bruise frequently, does the law require that teacher to report to somebody that they suspect something?

Mr. SARUBBI. Yes.

Mr. STARK. Now, other than teachers, in some States, I believe the State of Maryland, anybody can—

Mr. SARUBBI. It is everybody in New Jersey. It is not just limited to a teacher.

Mr. STARK. Okay. I am not a lawyer, so help me through if I am not getting the right words here. Have you prosecuted a lot of child abuse cases; is that part of your department?

Mr. SARUBBI. Yes. In fact, my child abuse unit is handling this investigation in conjunction with the Collingswood Police Department.

Mr. STARK. I have a daughter-in-law that does that in Berkeley, I might add. Very proud of her. Although she was just appointed to the bench by Davis before Schwarzenegger got in.

Let me go back a minute. Would you, if you can give your opinion here, and I do not know whether that is—would you consider these children, their treatment, constituted abuse under the terms of New Jersey law? Maybe that is not a—

Mr. SARUBBI. What I can tell you is what I had stated in my testimony, that based on our investigation that we have done so far, I believe that there was probable cause to sign a complaint for endangering the welfare of children and aggravated assault. In addition to that, a judicial officer was required to pass on the evidence to make a determination as to whether they felt the charges were appropriate. They were signed, a warrant was issued, and the Jacksons were arrested. So, I hope I have answered your question.

Mr. STARK. Yes. I am trying to use colloquial terms, and I don't suppose that you can. Maybe you can—and, again, this is an opinion. I notice that in this picture that was in the paper, that the girls in the family all appear to have been well fed and not mistreated, or whatever the legal term is. Does that mean anything to you, say anything to you? Do you have an opinion as to how—

Mr. SARUBBI. That is an excellent observation, Mr. Stark, and one that we have compared to the physical condition of the boys. We do not have the answer, unfortunately, as to why the girls were treated one way and the boys were treated another. Now, our investigation is continuing.

Mr. STARK. Was that question raised by people investigating it? Did they point it out that this seemed—

Mr. SARUBBI. Absolutely. We have mulled over that question on numerous occasions in my office amongst the legal staff and the investigators, and we are really still at this point trying to pin down the true motive in this case. That is one of the questions we have asked ourselves, and we may get an answer to it, we may never get an answer to it.

As I mentioned earlier, part of our investigation is going to include psychiatric evaluations of the children, and perhaps those questions may be answered during that process.

Mr. STARK. Reverend Thomas, did you ever talk with—was it Keith—no. Or Michael. Who is the 19-year-old?

Reverend THOMAS. Bruce.

Mr. STARK. Bruce.

Reverend THOMAS. Bruce was more in the shadows than the other children.

Mr. STARK. Did you ever chat with him?

Reverend THOMAS. Oh, sure. He would come out of church.

Mr. STARK. These kids go to Sunday school?

Reverend THOMAS. They went to Sunday school. Their Sunday school teachers have expressed to me how—

Mr. STARK. What grade in Sunday school was Bruce?

Reverend THOMAS. Bruce was in one of the lower grades because he kind of stuck with his other siblings.

Mr. STARK. Were they all like in second, third grade? Where were they? I do not know how you rank that.

Reverend THOMAS. I am not actually sure, but I do have some—I am probably the only one—can I say something? I am probably the only one that knows the family, or really knows the family, for 15 years. I am probably the only one who has consistently been around this family. I have video here of what this family looks like where they are in a talent show in the church. Actually, it was a missions banquet. I have pictures here of this family.

Some of these allegations that I am hearing are absolutely startling to me. I know the family, I have talked to them about the kitchen being locked and things of that nature, and those things are simply not the way they appear. Bruce would go down to the kitchen at night and eat most of the food. The family had to put an alarm, no locks, just an alarm, so that they would know. The family dog would often alert them if he was trying to go and do a disturbing thing in the neighborhood.

These allegations are simply not true. The family had plenty of food. They ate three meals a day. They didn't need assistance. They never even came to the church for financial assistance until a landlord called me and said, I think they are in trouble financially.

Mr. STARK. Things, I guess—you and I, Reverend, probably aren't the judge and the jury in this case, and things aren't always, I guess, as they appear. We find serial killers and bank robbers and people that happen to live next door to us, and you are just shocked to find out that people who we see every day are—

Reverend THOMAS. Yes, sir. I have been around a while.

Mr. STARK. So, that is something that Mr. Sarubbi and the criminal justice system will decide.

Reverend THOMAS. May I just—do I have a chance to say anything more?

Chairman HERGER. The gentleman's time has expired, but maybe a short statement.

Mr. STARK. Sure, Reverend, go ahead.

Reverend THOMAS. I have no political interest. I do not know all the things in the system. I am just a pastor. What just was said about the boys being treated differently, well, here is all the boys together, including the father, and this was taken just 2 and a half weeks ago. The picture that you are very familiar with, the picture of the girls. Believe me, folks, these are not monsters. They are—

Mr. STARK. All that is missing are the four loaves and the seven fishes, hey, Reverend?

Reverend THOMAS. Pardon me? Yes.

Chairman HERGER. The gentleman's time has expired.

Reverend THOMAS. Thank you.

Chairman HERGER. With that, I yield 5 minutes to a Member of the full Committee, the gentleman from Florida, Mr. Foley, to inquire.

Mr. FOLEY. Thank you, Mr. Chairman, for holding this hearing, and as Co-Chair of the Congressional Missing and Exploited Children's Caucus, I sit here trembling, listening to what I have heard today.

Reverend Thomas, with all due respect, this lack of even empathy for the kids. I almost feel or hear you saying, let's just call off the hearing and have an exorcism on these heathens. It is troubling that in a church—and other points, home schooling is being attacked today; money in the system, we don't have enough money, training. What type of training does somebody need, additional training, to find these problems in these kids? Isn't there a doctor in your church that recognized the frailty of these young boys?

I am astonished. I am astonished. People treat their pets better than New Jersey has treated their children in this instance. If they treated a dog like this, people would be in jail already in the Humane Society. Gopher tortises have a better safety net in this country than these kids.

I do not know where to start. I do not know where to start, but I see these four children wasting away, going to Sunday school and church every week, and nobody in the congregation thought to call someone. Thirty-eight visits on this home, \$30,000 a year, not a dollar going to a doctor, nobody going to seek intervention.

So, it is not all about money—and maybe it is about money. Maybe we have turned kids into money machines. Here, you take these kids. No one else wants them.

With all due respect to this family, if they are so demonic, then let somebody else deal with them. I heard you say, Reverend, he didn't want to turn them in because nobody else would take them. When you ignore the obvious, your statement that somehow the kid ate his lunch on the way to school and then lied to the teacher, well, at least he would be a normal-weight liar.

Reverend THOMAS. May I respond?

Mr. FOLEY. Please.

Reverend THOMAS. Yes. First of all, these children came in looking pretty much the way they look to you, very startling to you. I have a cousin who has cerebral palsy, and my cousin looks differently than other people and very underweight. I do not go up to

my cousin every week and say, what is wrong with you, or turn to her mother and say, show me some papers or say what are you doing.

Mr. FOLEY. Reverend, these are boys.

Reverend THOMAS. These boys were energetic, you will see in the video, energetic, coming up and hugging me, the first to come out after church, the little girls and the little boys. Believe me, our focus is on these children. Ray and Vanessa have been accused as being animals and everything else, but let me tell you what, these children are happy children, and they have been a great blessing to our church. There is not only me, there is 300 some other people who have observed them and loved them, and their condition was always taken into account because that is the way they came. I saw them when they first came.

Mr. FOLEY. Then how do you account for the gain of weight under State supervision?

Reverend THOMAS. I seriously question it. If I was placed in the hospital with 24-hour, around-the-clock care for the purpose of gaining weight, I would gain weight. You would gain weight. We would all gain weight. I want to know if it is water. I want to know if it is convoluted in any way. Did they have shoes on when they came in? What is the story? Did they have shoes only when they were weighed?

Mr. FOLEY. Do you discount the rummaging through the garbage next door looking for food?

Reverend THOMAS. Bruce? That was not the first occasion this child has done this kind of thing, and this is part of his sickness, and there is a need for his psychological well-being. He escaped one other time, went to a neighbor's house, just like we have the problem now; went to a neighbor's house, said, my parents are in Florida, they have left me here home alone. When the police came, checked it out, parents were there. This time he said, I don't have any parents, I am from Camden, I am homeless. Of course, that was obviously not true. They were right there in Collingswood frantically wondering where he was.

Mr. FOLEY. Well, I just know Florida has had its share of problems, a lot of States have, so I am not casting aspersions only on New Jersey.

The Governor ordered a blue ribbon panel on May 6, 2002, reported May 28th. We have had two progress reports. There is some good information the State can glean from this, but I have to tell you, we have to get moving. We have to get on this program.

It is only when a politician's job is on the line do we start waking up and shaking up these agencies. Typically what happens is we just change the name of the agencies so people can forget what the problems were in the past, and we don't change the fundamentals.

Our colleagues have asked some very important questions, and I think all of us share a responsibility. This isn't just pointing to a State and saying, how did you let this happen? Too many kids are falling through the system, we are asking too much of those very same people to go in homes that most people armed at the waist with guns wouldn't go into.

It still troubles me that 38 visits occurred, and I do not know whether they took place at Starbucks, but they do not seem to have

been focused at the house. Obviously, someone missed—even if they were looking at 1 child in a house of 12, they still missed some telling stories of that home.

So, at the end of this, hopefully, it is not about federalizing child protection, but it is all of us taking individual State responsibilities to see that these agencies are monitored; that the people sent out there tasked with the jobs were listened to. I have looked at some of these in Florida where caseworkers come back and tell their bosses, and the boss says, don't bother me with that, I can't fix it, or, I can't do anything about it.

Whether we are in our churches, in our Boy Scout troops, or in our hospitals, we all have to band together, because this is an epidemic problem for our kids, and it is just startling. Thank you, Mr. Chairman, for the indulgence.

Chairman HERGER. I thank the gentleman from Florida. I recognize the Ranking Member from Maryland Mr. Cardin.

Mr. CARDIN. Thank you, Mr. Chairman. I would ask unanimous consent if I could yield my time to the gentleman from New Jersey, Mr. Payne, who is not a Member of our Committee, but he is a person who has a great deal of interest in this subject, and a distinguished Member of Congress.

Mr. PAYNE. Thank you very much. I appreciate your yielding the time, and thank the Chairman for allowing me to ask a few questions.

I would just like to once again ask Reverend Thomas how he feels that the weight gain could happen? What was the amount of weight totally gained by the—how much—about 50 pounds, when together they weighed—it is probably about half of the amount of weight that they were when they were discovered? You said you think that they are doing abnormal things, when we have heard the prosecutor and Mr. Ryan say they are simply being fed.

Reverend THOMAS. Mr. Payne, I didn't mean abnormal things. I am saying these children have fluctuated in their weight before. These children have never received 24-hour, around-the-clock care to put on weight. Anyone would put on weight. I would really like, with the indulgence of the Committee, to have a little snippet of that video shown.

Mr. PAYNE. I only have 5 minutes, and I know we don't have time, Mr. Chairman. Let me just ask you another question. It seems like it is normal that people have three meals a day, and so you are saying now that because they are concentrating on gaining weight, that something different is being done. It seems to me they are getting three meals a day, which every child is supposed to get. That doesn't seem abnormal.

I am also kind of shocked, too. We look to the church for leadership, and I know that evidently you have a nice place in your heart for the parents, but you make the children, the victims, seem like the perpetrators. The way you describe Bruce, you make him like he is a criminal. He would do these horrible things, and all the focus is on the victim. It is unbelievable.

I have triplet grandchildren, and they are 5 years old, and I just cannot believe that somebody's children weighed less than them. It is almost impossible. I don't see how a person of the church—and I really respect the church, but I remember it sounds like some of

the missionaries back in the Belgium Congo in 1890 when they went and treated in a paternalistic way people—it incenses me that a person of the cloth could sit there and defend people who are wrong. They are wrong. There is no question about the fact. These parents are wrong. These children are victims. You turned the children around, as a man of the Bible, to say that there is something wrong with these abnormal children. It is absolutely wrong. When we have people making excuses for wrong people, we are going nowhere in this society.

In our town of Newark, where this young boy, 7-year-old Faheem Williams, was found dead in the basement, not one single person in the church, not one single public official, came out in defense of this horrible parent who allowed a child to die and to leave them in a box in the basement of a place.

When you are wrong, you are wrong. For us to continually make excuses for wrongdoing is wrong. We are as wrong as the parents when we make excuses for people that there is no question that something was done wrong here; that these children were not fed. Why would a kid be out at 2 a.m. anyway?

How can you defend a child being out at 2 a.m., being heard by a neighbor, being picked up by the police, if this is such a great church-going good family? It is absolutely ludicrous.

Reverend THOMAS. May I respond?

Mr. PAYNE. No, I don't want a response. I yield back the balance of my time.

Reverend THOMAS. That is very unfair, sir.

Chairman HERGER. I will allow Reverend Thomas a short response.

Reverend THOMAS. Yes. In all due respect to Mr. Payne, we are dealing with allegations that are extremely serious against this family, and the truth must come out, allegations such as they never went to eat in a restaurant. I have pictures here of them. The prosecutor has many more pictures of them at Disney and other places.

We are not out to make any of the children look bad, but there are untruths that have been told that has made this entire family look bad, has split this family up. I am with the birth children, and I would like to see the children. I have a pastoral responsibility to see the children, and I have not been able to get to see the children. I have been told that I am not allowed at this point to pursue it any further, basically to just—we will call you back when we want to call you back.

These children, there is no truth to these allegations. I can be called a liar. I have nothing personal to gain. I am simply their pastor. I am not elected to any office. I have nothing else. I am just telling you these people are innocent, and I am telling you they had three meals a day, they ate like everyone else, and there are some serious difficulties with these children that have absolutely—they have had to deal with, and they have had very little support in that whole thing. So, I really believe that you at least should see the children on that video.

Mr. CARDIN. Mr. Chairman, before we adjourn, if I could have 30 seconds?

Chairman HERGER. The gentleman from Maryland is recognized.

Mr. CARDIN. Just to reflect, and thank you for holding this hearing. It is somewhat painful, but I think it is important that we have a record of what happened in New Jersey. New Jersey is not alone. In Miami a young girl was missing for 15 months before anyone knew that she was missing. In Pennsylvania a young girl 3 years old died after allegedly being beaten and starved to death by a woman and a boyfriend just a day after a social worker visited. So, this is not a unique circumstance.

Ms. Lowry, keep up your good work. Mr. Ryan, I am glad to see you are independent and giving a voice in New Jersey. Keep up your work. People are listening. We have to change the system.

Chairman HERGER. I thank the gentleman from Maryland. I would like to just conclude, and I want to thank each of our witnesses. I want to conclude by rephrasing just a bit the question that I started with, and I have to say that in my 17 years in Congress, this is the most alarming issue, the most alarming hearing that I have sat in as a father of nine.

When we look at the fact that Bruce had gained 18 pounds and now weighs 63 pounds, and this is over a period of 24 days, Keith had gained 16.5 pounds and now weighs 56.5 pounds, Tyrone had gained 11.6 pounds, now weighs 39.6 pounds, and Michael had gained 9 pounds and now weighs 32 pounds, my original question to each of you was based on what you know—and the purpose of this Committee was to get those who are closest to this issue in New Jersey to come before this Committee so we would be able to get the facts out so that we could move forward, and it appears that we will be moving forward with further hearings on what we can do to help prevent something like this from ever happening again. My original question was your personal opinion, as an answer yes or no, were the Jackson boys abused.

I think I would like to rephrase that. Now, in this, what is it, less than a month period of time that the boys have been out of this home, are these boys better off now than they were before—and if I could just ask in your opinions, and that is all they are, whether they are or not better off after this hearing?

Ms. MAGUIRE. Well, they are certainly in a safe environment now, and they are gaining weight. I think that is indicative of the answer, Representative.

Mr. RYAN. Representative, they are healthier, and they are on the road to recovery, but this is not a happily ever-after story. These boys and their sisters have seen their family implode, and these boys and their sisters are separated now. One boy is in one facility, two others in another, the fourth boy is in another facility, the sisters are somewhere else. One can only characterize that as tragic.

We would all do well, I think, to think about how these systems can work to strengthen families and support them so that at the end of the day families don't implode, parents aren't charged with these sorts of crimes, and children aren't left languishing and starving. This is really a failure that these children will have to live with for a very long time.

Chairman HERGER. Mr. Sarubbi.

Mr. SARUBBI. I think clearly they are, from a physical as well as a psychological standpoint, but I have to echo Mr. Ryan's statements in that these boys have so many hurdles to overcome over the next several years. They are entering a very critical period in their rehabilitation in terms of their ability to grow to be somewhat normal height. Tests will continue to be run. If their growth plates are closed, there is not a good chance that they will grow to within normal ranges for children their age.

So, they are coming to a very difficult time, and I think that is complicated by the fact that they have been separated from what they have known for so many years, however horrible it may have been.

Chairman HERGER. Reverend Thomas.

Reverend THOMAS. Just to preface my remark, the night—or the day that the children were taken from the home, and I went to the home as a pastoral visit and was there to give support to the family, they were devastated. They were crying. They were in terrible shape. Raymond turned to me and he said, perhaps what will come out of this is that Bruce will get the kind of help that he needs. That is where we are. Any help that can be given to these children, anything that can make their health and strength better, of course we are in favor of that.

Chairman HERGER. Good. Ms. Katz.

Ms. KATZ. I have two kids, and as much as they fight, I think that one of the most horrible things that we could do to them would be to separate them. I would have to echo what Kevin said. I think that as healthy as these boys may be becoming, it is tragic, and we need to find the ways to stop these things from happening before we get here, because there is no good outcome here.

Chairman HERGER. Thank you. Ms. Lowry.

Ms. LOWRY. I think there is very little question that these children have been permanently and irrevocably damaged. Although they may physically get better, they have been deprived of a chance for a real family that they can grow up with, and I think it is very hard to put them back together again.

Chairman HERGER. Well, I want to thank you. Again, I want to thank each of you for your testimony. It has provided useful information for us to consider as we assess this case and its implications in subsequent hearings and discussions. Our goal is to ensure the safety of all children, and we appreciate your help to that end.

Mr. FOLEY. Mr. Chairman?

Chairman HERGER. The gentleman from Florida.

Mr. FOLEY. May I ask unanimous consent to include in the record the blue ribbon panel report of Florida?

Chairman HERGER. Without objection, so ordered.

[The information is being retained in the Committee files.]

Chairman HERGER. With that, this hearing stands adjourned.

[Whereupon, at 12:27 p.m., the hearing was adjourned.]

[Questions submitted from Chairman Herger to Mr. Ryan and Ms. Maguire, and their answers follow:]

#### **Questions from Chairman Wally Herger to Kevin Ryan**

**Question:** I understand doctors have seen the boys since they were removed from this home.



- a. Can you share with us their professional medical evaluations of the boys' condition and any ailments or physical disorders they might have? (For example, it has been alleged the boys suffer from everything from fetal alcohol syndrome, to being crack babies, to—in Rev. Thomas' testimony—"rumination." Is that true?)
- b. Have the doctors offered any type of prognosis for their recovery?
- c. What should all this tell us about claims that the boys suffered from eating disorders that resulted in their being so severely malnourished?

Answer: (a) With respect to the boys' medical conditions and any ailments or physical disorders that they might have, my office has done three things: (i) we have subpoenaed medical records from the three medical providers that were referenced in their case files, including: CAMCare Health Corp., Our Lady of Lourdes Medical Center and Voorhees Pediatric Rehabilitation Hospital; (ii) we have requested an independent medical review of this information from two pediatricians, in order to glean a fuller understanding of their medical conditions and treatment since October of this year when they were removed from the Jackson home; and (iii) we are awaiting the reports on each of the boys from Dr. Marita Lind, the treating pediatrician under contract with the Division of Youth and Family Services (DYFS) who has had the most regular and comprehensive contact with them.

(b) We know that a variety of medical professionals, including but not limited to, pediatricians, endocrinologists and dentists have examined the boys since October. In light of their varying medical conditions, growth stages and ages, we anticipate a fuller understanding of the prognosis for recovery for each boy, once we review the individual medical reports. We expect to receive this information in the next week or so.

(c) Dr. Lind's comprehensive report on each boy should help explain, at least in part, whether claims that the boys had suffered from eating disorders that led to their severe malnourished states, were in fact true. What is indisputable, however, is that, to date, the boys have gained both height and weight and, to my knowledge, have been administered nothing other than a normal diet and vitamins.

**Question: What specifically in this case has led you to begin your own investigation? I understand that you are working with the prosecutor's office as you move forward. What do you intend to do as part of your own investigation? Do you anticipate making recommendations for how New Jersey could improve its child welfare system based on the findings of your case? (In addition to answering these questions, I encourage you to share such findings or recommendations with the Subcommittee when they are available.)**

Answer: Approximately 9 pm on October 24, 2003, I received a call from a high-ranking official at the Department of Human Services (DHS), which first alerted me to the facts surrounding the Jackson's home, that four boys had been removed from that home in severely malnourished states, and that the Camden County prosecutor was planning the next day to conduct a press conference announcing criminal charges against the parents for aggravated assault and endangering the welfare of a child (in this case, the four Jackson boys). That call prompted my office to begin an investigation into the Jackson matter which includes, but is not limited to, an in depth inquiry into the systems that serve children in the care and custody of the State, and the factors that permitted the Jackson boys' deteriorated medical conditions to persist virtually unchecked.

As you are aware, my office was created by statute in September 2003 and, among other things, is charged with identifying systemic problems with the various entities, public or private in New Jersey, that serve children. Having taken office just one week prior to the call from DHS on the evening of October 24th, the Jackson case served as a catalyst for my office to begin its inquiry into the child welfare system that apparently failed these boys.

As I mentioned earlier, we do anticipate making recommendations for how New Jersey could improve its child welfare system, based upon our findings, and will gladly share that report with you. We recognize, however, that the Jackson case provided just a small snapshot of the entirety of the problems facing New Jersey's system, and are cognizant of the enormity of the task of creating real and lasting reform. To that end, you should know that New Jersey is facing a January 18th deadline with which it must comply as part of a lawsuit settlement with Children's Rights, Inc. The very simplified significance of that date is that DHS must present an independent panel of five experts its plan for comprehensive reform of the child welfare system, which the panel will evaluate and ultimately accept or reject.

**Question: Do you have any data about other children in foster care or who have been adopted from foster care in New Jersey who have fetal alcohol syndrome? For example, do we know if any of them suffer from the sort of malnutrition evident in this case? What does that suggest about this case?**

Answer: We have not made a specific inquiry about data concerning other children either in foster care or who have been adopted from foster care, who have fetal alcohol syndrome (FAS), and have therefore not necessarily linked malnutrition to this factor. Examining FAS as an independent and early identifier of future complications for foster children may be an idea worth considering, however, in the Jackson case, I have not yet seen evidence that necessarily draws this conclusion. Indeed, it appears at this juncture that proper nutrition and consistent medical attention might have averted many of the boys' problematic health issues. Again, the medical reports should be helpful in this regard.

**Question: How much Federal and State money did the family receive in the form of maintenance payments to support the children? Is there any evidence suggesting what those funds were spent on?**

Answer: On average, the Jackson family received approximately \$4,800 annually in the form of subsidy payments for each child. Half of that money is provided by the Federal Government; the other half by the state. Other than a per diem clothing allowance calculated as part of each child's subsidy, there is no requirement, reporting or otherwise, that the funds be spent in any particular manner for the children's care.

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#### Questions from Chairman Wally Herger to Colleen Maguire

**Question: You state in your testimony (page 4) "it has been documented that none of these boys had seen a doctor in at least five years."**

- a. **First, how is this documented?**
- b. **Second, even if we accept the parents' claims that the boys suffered from eating disorders, and that is the explanation behind their size and weight, doesn't the absence of medical attention for that long in and of itself amount to neglect?**

Answer:

- a. Documentation: The four boys were all enrolled in New Jersey Medicaid, which is a component of the adoption subsidy program. According to initial Medicaid claim history, there is no documentation of any claims for any of the boys for almost 5 years. Further, there is no evidence that the boys received medical care from any provider not affiliated with the Medicaid subsystem. No provider has come forward; nor have the parents provided anyone with the name of any provider. Information provided by the Camden County Prosecutor indicates that Mrs. Jackson admitted that she has not taken these boys to a doctor for the past five years. However, the Department of Human Services (DHS) is continuing to review all of this information.
- b. Does this constitute neglect? The failure to provide children who have medical problems with appropriate medical treatment does constitute child neglect under New Jersey law. New Jersey law requires any person who has reason to suspect that a child is being abused or neglected to make a report to the Division of Youth and Family Services (DYFS). The report would then be investigated. In this situation, no report was made until the night that Bruce was observed eating from a neighbor's trash.

**Question: What is the boys' long-term medical prognosis? Are they going to be regularly seen by doctors? Will they receive specialized medical care? How will you ensure that occurs?**

Answer: The prognosis of the two younger boys is that we expect them to make a full recovery, whereas the two older boys have more significant obstacles to overcome and therefore have a more guarded prognosis. All of the boys are still undergoing testing to assist in fully understanding the medical implications of their health issues.

Each of the boys will be receiving specialized medical/dental care as determined by their individual needs. All four boys are receiving weekly in home/hospital visits by a nutritionist who is working in coordination with them, their primary care physicians and their foster parents.

The children remain under the care of the NJ Division of Youth and Family Services (DYFS) which will continue to monitor their medical care. A senior level administrator in the DYFS' Southern Regional Office is coordinating all of the issues related to this situation. A physician and medical consultant are reviewing their medical needs and care, and assisting in coordination. Also, plans for the boys are being reviewed by the Family Court.

**Question: Ms. Lowry's testimony states that her review of this case finds:**

**"A failure to adequately conduct a safety assessment on behalf of the child in foster care who was placed with (the Jacksons)—an assessment which should have included an evaluation of the home environment and any and all health and safety issues affecting all children in the home. Had such a complete assessment been conducted, the terrible circumstances under which the four adopted boys were living would have become obvious. None of this happened, however—why not?"**

**What does the safety assessment require? What aspects of the house and the family are examined? Why did this safety assessment not happen? Do you have any doubt that if a proper assessment had occurred, that not only would the female foster child not have been placed in this household, but the State would have taken action to protect the boys as well?**

Answer: Effective June 2, 2003, the NJ Division of Youth and Family Services initiated a safety assessment of all children in out of home placement. The process was subsequently modified effective August 18, 2003, to provide casework staff with additional information about the foster home. This initiative concluded on October 23, 2003. For children placed in adoptive homes, a *Placement Assessment* format was utilized which was originally developed to guide adoption decision-making concerning permanent placement with an appropriate family. This process, guided by a series of questions, solicits information about the care the child is receiving, how the family understands and is able to meet the youngster's needs, his/her safety in the home, and the family's ability and commitment to raise the child to majority.

The *Placement Assessment* (which was conducted on the foster child in the Jackson home) is divided into six sections. These include:

- An initial face sheet containing identifying information, any allegations of abuse/neglect, or criminal record of all adults residing in the home, and any waivers previously granted.
- Child Issues—information obtained about an individual child. This information includes an assessment of any special needs; observations of the child, their clothing, their living space and incorporation into the family unit; the child's perceptions of family members, discipline methods and other family member relationships; status of birth siblings; child's placement history; dates and findings of last medical and dental exams and the status of the child's life book.
- Family issues—information to be obtained about the foster/pre-adoptive family. This asks for a list of each individual residing in the home and a description of their role within the family. Any special care needs of the child in question are to be recorded, as well as how those needs are being met and by whom. Other information requested is the age and health status of the parents; an assessment of the stability of their relationship and their individual feelings about the child; family member interaction; integration of the child into the family unit; parent perceptions of the child's current and future needs; disciplinary methods; support systems; and prior parenting experiences.
- Physical space issues—an assessment of the living and sleeping space and housekeeping, health and life safety standards.
- Collateral contacts—documentation of contacts with doctors, schools, therapists or other service providers, and an exploration of any difficulty that the foster family had in handling other children and how they resolved those difficulties.
- Final assessment—This section is completed by the caseworker and supervisor about the child's needs and the family's ability to meet them, the child's safety and adoption status. The date of the final supervisory conference is documented and the approval/disapproval of the foster parent adoption plan.

As you will note, this is a very comprehensive review, and it was this protocol that was completed on the foster child in June 2003. The conclusion reached was that the foster child was safe and receiving adequate care in the home. The questions related to other family members focused on the other children in the home only as they related to the prospective foster home adoption plan.

The completion of a thorough assessment at that time should have initiated an immediate investigation concerning the care of all of the children in the home, lead-

ing to protective actions on their behalf. Although the foster child was placed in the Jackson home in August 1999, which predates the implementation of New Jersey's safety assessment process and the adoption office's placement assessment process, ongoing assessment activities should have uncovered these problems, leading staff to take appropriate actions.

**Question: What concerns me about this case is what might have happened to the children in this house if the neighbor had not called the police last night. It was the police and the neighbor who immediately realized that something about this boy was not right, not the numerous caseworkers who had visited this house. Add to that the point Ms. Lowry makes in her testimony about how over one in ten foster care children in New Jersey are abused and neglected in foster care. That's a startling statistic. What is your department doing to ensure that there are no additional children who are currently being neglected while in foster care and whose neglect is unnoticed by caseworkers?**

Some of the facts about the house and the family that are being uncovered raise some concerns. The electricity had been off for 6 months. The family was behind in their rent and had recently received assistance from their church to help pay some bills. The father was unemployed.

- a. Why would this information not raise concerns with a caseworker?
- b. Are the State's protocols for assessing a child's current living arrangement designed to find out this type of information?
- c. Are you considering changes to capture this information?

Answer: As noted in the information in question #3, caseworkers are required to routinely gather and assess information about a wide range of child/family issues. In this case, clearly the lack of electricity is a concern that should have been identified and addressed.

Since the state is concerned about this issue, DYFS has taken a number of steps to strengthen our processes. First, licensing for foster parents has already been revised to require that every family member be seen before a foster home license is granted or renewed.

Second, following the state-wide initiative to ensure that each child in substitute care was safe, on October 23, 2003, DYFS implemented procedures to assure that the safety of each child placed into substitute care by the agency is assessed on a continuous, ongoing basis. New protocols were developed to facilitate the policy. This activity is unique to New Jersey. We believe that no other state child protective service agency in the nation has developed a tool and implemented procedures to assess the safety of children placed in substitute care, including home-like settings and congregate care facilities.

NJ policy specifies that a child's safety in foster care will be assessed, and thus assured, at the following set intervals:

- Within five (5) work days of the agency first placing a child into substitute care. The child safety assessment is conducted during the agency's first visit to the foster home after placing the child.
- Within five (5) work days of moving/re-placing a child into a new foster home. The child safety assessment is conducted during the agency's first visit to the foster home after placing the child there.
- When investigating a child protective services allegation regarding a foster home.
- Every 6 months, when the agency prepares case recording documents.
- Child safety may be reassessed at any other time, when appropriate and as necessary, to assess the safety of one or more children residing in the substitute care home.

Agency Caseworkers, Supervisors, Managers and Administrators make the decision whether additional child safety assessments need to be conducted on a case-by-case basis, based on the circumstances of the child.

Procedures followed by agency field staff for assessing child safety in a foster home include:

- Interview the child in private.
- Observe other children in the home, including birth children and other foster children.
- Observe the physical condition of the home to determine whether there are any apparent safety hazards or life-safety concerns present.
- See the child's room and assure the child has a bed.

- Determine whether the child's physical needs are being met. (Is the home clean? Is there an adequate supply of food for the children? Are the utilities operational—heat, running water, electricity?)
- If the household has a pet(s), ask to see the animal and assure that it does not pose a danger to children.
- Interview the foster parents. Ascertain how the child is adjusting to the home and substitute care family.
- Observe interactions between the various members of the household.
- Confirm the names and relationships of all adults and all children currently residing in the home; obtain identifying information about any other persons residing in the home. If other adults reside in the home, find out who they are, and whether they have a role in caring for the foster child.
- Return to the home/conduct a follow-up field contact if an adult or a child household member is not at home during the agency's field visit.
- Take prompt action if a child is found to be in danger in the foster home. Develop and implement a plan to assure the child's immediate safety; remove the child, if necessary.
- Notify the State's Office of Licensing and the DYFS regional foster home unit if there is a concern about the physical structure of the foster home, or a violation of standards. Life/safety concerns are addressed immediately.

Third, there will be another safety assessment review of approximately 5,000 children placed in substitute care settings. We anticipate utilizing community providers, who will receive specialized training for this process. This will commence in January 2004.

Beyond the above efforts to assess safety in foster homes, DYFS is requiring staff to identify and assess safety concerns including such basic factors as working utilities, appliances and adequate food. These include a continued roll-out of our Structured Decision Making program which will include new tools and training for all casework staff. To support an overall improvement in case practice, the state is hiring additional supervisors and case practice specialists, which will provide casework staff with greater support with their decisionmaking.

**Question: Is it unusual for families to survive solely on foster care and adoption payments, as apparently was the case in the Jackson family? Do you know what share of all cases does so? Does that raise any red flags with your office? How about when a parent is laid off? Does that affect anything with the case?**

Answer: As part of the assessment process, foster and adoptive parent applicants are required to document that they have financial resources to support themselves, separate from any board payments provided by the state to assist them in the care of the child(ren). Further, they are required to notify DYFS if their financial circumstances have changed. Currently, once the home receives its initial foster home license, income monitoring does not occur. However, once an issue is identified that may affect the safety or welfare of a foster child, there is an expectation that it be appropriately addressed, up to and including the removal of the child(ren) and closure of the home.

Adoption subsidy is more complicated. Documentation of adequate financial resources is required during the assessment process. Families are currently required to sign Subsidized Adoption Annual Renewal Agreements that indicate they continue to provide financial support for the child. We do not have information on the number of adoptive families where subsidy has been the only source of income. However, just as with birth parents, the state's current authority in adoption matters is very limited as it relates to on-going monitoring of issues such as income. We are looking into ways to strengthen our ability to monitor adoption subsidy payments.

As a result of this matter, there will be a complete review of the state's licensing process for foster parents and the adoption subsidy policy. As previously noted, in areas where system weaknesses have been identified, these will be strengthened.

**Question: Your testimony (page 4) states "there is some indication that the boys may have had medical issues prior to adoption."**

- a. What does this mean?**
- b. What specifically did your department know about the medical condition of the boys when they were originally placed in foster care with the Jacksons?**

- c. I can only assume that if the boys suffered from fetal alcohol syndrome, which has been alleged and which is known at birth, that that condition was known to caseworkers. Is that true?
- d. What were the Jacksons told?
- e. Were the Jacksons instructed to provide regular medical care, including doctor visits for the boys?
- f. Obviously, no one followed up to check on their medical conditions. Should that have happened in this case, under your protocols? How about other cases?

Answer: The closed DYFS records for the four boys indicate that each of these youngsters had significant medical issues before coming to live with the Jackson family. It also appears that there were indications before the boys were adopted, that their medical conditions were not resolving.

While the children were followed at a local pediatric clinic, it does not appear that any alarms were raised about their condition, although two of the boys had at best, minimal weight gain, and for two of the children there was a loss of weight. In the fall of 1996, three of the children were seen by a specialist. The physician indicated that the children had medical conditions but no instructions were given to the parents that anything should be done differently.

The Jacksons were given extensive medical and social histories for all of the children. The parents were present for a medical evaluation for two of the boys in 1996 and discussed the medical conditions of the children with the pediatrician. Both boys were adopted on March 14, 1997.

We expect that adoptive parents understand and are prepared to meet all of the needs of the children they are adopting, including medical and dental care. When a child is being adopted, the adoptive parents are told that they are now responsible for meeting all of the child's needs just as they would be for a child born to them. Because the family had been very cooperative and involved in the children's medical appointments prior to adoption, there was no suspicion that they would not continue to do so after adopting the boys. It is unfortunate that no referrals were made to the division by the hospital clinic where they were treated for a number of years when these children stopped coming for medical care after the adoption finalizations.

Once the adoption is finalized, there is no protocol to monitor that children receiving adoption subsidy are receiving appropriate medical treatment. However, this issue is under review as we look to strengthen our adoption subsidy program.

**Question: The purpose of this hearing was to review in detail what went wrong in this case, and what that means. Let me turn this around. Based on what we know now, what should have happened?**

- a. When should your department have acted?
- b. Should these boys have been placed with this foster family in the first place?
- c. Should they have been allowed to adopt them?
- d. I want to know at what point the system broke down and started doing things that in retrospect shouldn't have happened. And based on that, what changes have you made or plan to make so that similar breakdowns don't happen in the future?

Answer: From all collateral reports, the Jackson family appeared to be doing very well with their first foster child, and the case record documents his progress. This is most likely why other children, seemingly having somewhat similar problems, were placed with them. The extensive court reports completed at the time of adoption for each of these boys are extremely positive. The family is portrayed in very glowing terms, and the medical issues are noted as being successfully addressed. Because it probably didn't happen all at once, it is difficult to say from a safety perspective just when DYFS should have acted.

This case illustrates that, in our efforts to effect a permanent plan for a child, we often turn to the same individuals and families who previously answered our call to accept a child who needed a home and family. While these families are to be applauded, we all must recognize that the more they extend themselves, the more that they need the on-going support of family, community, and government.

This case also illustrated weaknesses in our systems and practices. We have already made a number of changes, such as requiring that licensing see every member of the household, instituting safety assessments for children in out-of-home care, and implementing new Structured Decision Making training in February 2004. We

will make other adjustments as further investigation and review of "best case practices" are conducted.

[Submissions for the record follow:]

**Statement of Douglas H. Reiniger, American Academy of Adoption Attorneys, New York, New York**

The American Academy of Adoption Attorneys is a non-profit association of attorneys, judges, and law professors from around the country and Canada. It is dedicated to the study and improvement of adoption laws and practice standards. The members of the Academy represent adoptive parents, birth parents, adoption agencies and others involved in adoptions. The Academy supports policies that help make adoptions more available, less bureaucratic, and more clearly in the best interests of all concerned, particularly the children. One of the Academy's primary missions is to support the rights of children to live in safe, permanent homes with loving families.

My purpose in submitting this statement today is to assure the Members of this Committee and of Congress that they need not have second thoughts about the wisdom or the good effects of the Adoption and Safe Families Act of 1997 (ASFA) or other Federal legislation which encourages the movement of children from foster care into permanent homes just because of the occurrence of isolated cases like the tragic one reported in New Jersey recently.

The members of the Academy have seen the paradigm shift that the Adoption and Safe Families Act has spurred in child welfare departments and courts across the country. Our members can attest that ASFA has been a great success. By including adoption as a permanency goal in child dependency cases and by providing a financial incentive for increases in the number of adoptions, Congress has successfully focused state attention on the important role adoption can play in finding children safe, happy, and permanent homes.

Members of the Academy are directly involved in adoption related cases every day, in every state, and I can assure you that situations like the one in New Jersey are aberrations. The facts of the New Jersey case are still coming out, but it appears clear that it had no relationship to the incentives or procedures created by ASFA, since the adoption of the boys involved appears to have occurred before ASFA was implemented. The overriding requirement of all the Federal government's statutes and programs which encourage the states not to let children languish in foster care is that the health and safety of the children should be the paramount concern.

Federal incentives to adopt are not the cause of tragedies like the one in New Jersey. We should not ignore the fact that there are poor prospects for parenthood and child abusers out there, but ASFA has not failed to address those concerns. The Adoption and Safe Families Act has requirements for criminal record checks of prospective foster or adoptive parents, provisions for risk assessment tools, and an insistence that the best interests of the children must be forefront in all decisions affecting them. The array of safeguards built into this effort to help children find permanent, loving homes is formidable. However, even the best designed programs are implemented by people who can be fallible and every government program has benefited from applying the lessons learned from implementing it.

Based on the experience of our members in the child welfare trenches, the Academy has previously given Congress recommendations for improving the implementation of various aspects of ASFA, including the Adoption Incentive Program. But, in response to Chairman Herger's question about how to prevent another case like the one in New Jersey from occurring, what I would add to those recommendations is improved recruitment, training, and supervision of child welfare staff and oversight, oversight, and more oversight. This hearing is a good example of letting everyone in the child welfare process know that Congress cares about how this program works and is watching to insure compliance with its directives.

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**Statement of Jeanne M. Beebe, Pueblo, Colorado**

I have read about the case in New Jersey where a family adopted multiple times, receiving subsidies for their adopted children, yet provided awful living conditions. This is a very sad case, but it is also an unusual one, in my experience.

I have 3 children, all special needs adoptions with subsidies of varying amounts. I am involved in local adoption support groups in my area of Colorado and am well informed regarding adoption issues. I also meet many other adoptive families. It has been my experience that adoptive families, some of which are receiving subsidies and some of which are not, are as a rule providing superior care to their children.

Adoptive families are families by choice, whereas often biological families are not. Adoptive families are usually more aware of special needs issues and resources, whereas biological families often are unable to identify or effectively obtain help when trying to cope with special needs. I am making generalizations here, but I think it needs to be recognized that, by and large, families who step forward to adopt special needs children are usually very special people. Many are also very grateful to be able to adopt a child, including one with special needs, because they may not be able to have biological children and yet may not be able to afford to pay the high fees charged for private adoptions. And this brings me to the subsidy part.

Children with special needs very often require services that require funds above and beyond basic medical care. I will use my own family as an example. My husband and I adopted because we were unable to have biological children. We also sat on a private adoption waiting list for an extended period. We were then told by the adoption agency that they could place a child with us immediately if we were willing to accept the risk involved with pre-existing psychological damage, as well as the substantial risk that he might be returned to his birth family. In short, we would have to be his foster parents with no rights to him at all, providing all the while the healing and love to repair the brokenness in his little heart, transporting him to twice weekly visits to his birth family, having caseworkers come through our home twice monthly, and knowing that the courts might return him at any time to the home that had damaged him. We said yes. We endured 2 years of this legal limbo, all the while coping with his attachment disorder, before we were able to adopt him. We received a subsidy of \$590/month.

Our next 2 children were a severely drug-exposed infant and a troubled teen. All 3 of these children require a lot of parenting. Children like these cannot be placed in daycare while both parents return to work. I was a professional RN Quality Improvement Manager, but I gave all of it up to provide the care my children require. They and my husband are the great loves of my life. And there is simply no way I could have continued not to work and give them everything they needed if we had not received adoption subsidies. That's just reality. These are not the kinds of children who can be latch-key kids. The 2 with attachment problems need a parent who is not absent for long periods. The drug-exposed child, even now at age 3, can't tolerate long periods of exposure to excess stimulation, as would be present in a daycare center.

I urge you to consider the larger picture when thinking about and discussing the issue of adoption subsidies. The children need them. The adoptive parents who cope with damage birth parents often created need them in order to provide the healing that the children must have to become whole. And society needs them, because without this wholeness, these children will not become productive members of our world.

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#### **Statement of Shirley and Robert Bell, Aurora, Colorado**

We are a middle class family that live in a nice community with some of the best schools. My husband and I have worked for most of our lives. We intend to work up until retirement for our own security. We are very capable of taking care of ourselves. Adoption subsidies allowed us to adopt and continue to care for a sibling group of 2 children. It takes care of daycare that otherwise we could not afford. With clothes, school supplies, activities, food, entertainment, vacations and time lost from work with sick children, school conferences, suspensions, doctors, dentist, vision, and therapy appointments, it would be more than we could afford. Also as the children get older their needs start to change. Not to mention the emotional draining aspect of it all. We hope to adopt other children in the future. The adoption subsidy allows us to consider moving other children from the system into a healthy, nurturing environment. With direct parental guidance we can possibly keep them from bringing up children without the knowledge, skills and education on how to provide for them. Without adoption subsidy we couldn't consider the possibility of adoption. This would reduce the amount of children being placed in healthy loving homes and receiving the attention and care that every child deserves.

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#### **Statement of the Child Welfare League of America**

The Child Welfare League of America (CWLA) welcomes this opportunity to offer testimony on behalf of our 1,000 public and private nonprofit child-serving member



agencies nationwide for the hearing on the “Recent Failure to Protect Child Safety” focusing on the recent tragic case in Camden County, New Jersey. We share with this Subcommittee a desire to ensure that we can work together to prevent other children from enduring such horrible abuse.

It has been nearly two weeks since the Nation has learned of some of the details surrounding the New Jersey family that had adopted six children. The image of a child—indeed a young man—rummaging through a trash can to find food is both sad and appalling. It easily causes us to ask the question how could this happen and, more importantly, to ask how can we make sure that this never happens again.

#### ***Adoption Is an Important Permanency Option***

It is important to begin with a reminder that adoption is a very important permanency option for some children. Although the majority of children in foster care are able to be safely reunited with their families (in 2001, 263,000 children exited foster care, and 57% returned to their birth parents or primary caregivers), adoption is a very important option for those children who cannot safely return to their families. Adoption for these children can be their best chance for safety and security.

Research has shown that adoption produces good outcomes for children. A study in 1994 on special-needs adoptive families indicated that most outcomes, in particular, school performance, family functioning, and parents’ reports of the adoption’s impact are distinctly positive.<sup>1</sup> Another study on postadoption experience indicated that placements were very stable with approximately 97% of parents reporting that the adoptive children were still living in the home at the time of the survey up to two years later. In addition, this study reported positive outcomes not just for the children but the parents involved.<sup>2</sup>

The numbers of legalized adoptions from foster care have increased since the passage of the Adoption and Safe Families Act in 1997. Nationally, adoptions have increased 37% from 37,059 in 1998 to 50,950 in 2002. In the last three years, these national figures have remained relatively stable.

#### ***Existing Federal Supports for Adoptions from Foster Care***

Federal policy recognizes the importance of adoption of children from foster care and supports such adoptions in several ways. The primary support is the Title IV-E Adoption Assistance Program. That program provides subsidies to families who adopt children with special needs (as defined by the state) from foster care. In FY 2003, federal funding for that program was \$1.6 billion. That federal program had increased its level of support from serving 34,698 children in 1988 to 195,243 in average monthly claims in 1999.

Since the passage of the Adoption and Safe Families Act in 1997, the federal government has also provided states with incentive payments for every child adopted above the previous year’s level. On October 8, 2003, by voice vote, the House of Representatives extended an authorization of \$43 million per year for those incentive payments through 2008. Current funding for these federal payments to states is \$42.7 million.

Since 1981 adoptive families have also been supported with a federal tax credit. Currently, families who adopt children from foster care are eligible to receive a federal adoption tax credit of \$10,000 per child.

The current federal supports in place to support adoption are important and should continue, however, more needs to be done. Despite the strides that have taken place to promote adoptions, the need continues: The number of children in foster care waiting to be adopted in 2001 was 126,000. Approximately 59% of these children were living in nonrelative foster homes. The average age of these children was 8.3 years.<sup>3</sup>

The need for foster and adoptive families continues to grow. Many states are instituting expedited permanency planning systems that seek to place foster children with resource families who will eventually become the adoptive parents. Despite this trend, the need for unrelated adoptive families has not diminished; there continue to be waiting children. Renewed efforts must be made to recruit and retain well-qualified foster and adoptive families.

<sup>1</sup>“A Longitudinal Study of Special Needs Adoptive Families” by James A. Rosenthal and Victor K. Groze, *Child Welfare*, 1994.

<sup>2</sup>“The Postadoption Experience: Child, Parent and Family Predictors of Family Adjustment to Adoption,” by Thomas P. McDonald, Jennifer R. Propp, and Kimberlee C. Murphy, *Child Welfare*, January–February 2001.

<sup>3</sup>AFCARS report, *Preliminary FY 2001 Estimates March 2003*, U.S. Department of Health and Human Services, the Administration for Children and Families, Children’s Bureau.

### ***Federal Supports for Other Permanency Options***

In addition to adoption, there are a number of other permanency options that are desirable and good for children. First and foremost is the option of keeping children safely at home with their families. Family support and preservation strategies are not always associated with permanency planning, yet they should be the first consideration in our efforts to ensure permanency for children. Primary prevention services can prevent many families from ever reaching the point where a child is removed from the home. Family support, home visiting, and in-home services enable many parents to gain competence and confidence in their parenting while addressing other family concerns. Child care, housing, and job training/employment are services that enable families to stay together to the fullest extent possible. These and other preventive services need to be much more available to families early on as well as when a crisis occurs. Currently, the federal government provides only limited support for prevention and family support services. Too often, these programs must compete with other human services programs for scarce federal resources.

For children who are away from their families, in family foster care, or in residential care, the preferred option is that of reunifying children with their families, whenever that can be done safely. Forty-three percent (239,552) of children in care on September 30, 2000, had a case plan goal of reunification with their parents or other principal caregiver whereas 57% (157,712) of the children who exited care during FY 2000 returned to their parent's or caregiver's home.<sup>4</sup> Successful permanency through reunification requires many things, but at a minimum, skilled workers, readily available support and treatment resources, clear expectations and service plans, and excellent collaboration across involved agencies. There also is a critical need for aftercare or post permanency services to ensure that safety and permanency are maintained following reunification.

Finally, guardianship with relatives or, in special circumstances, with foster parents or another caring adult can be a positive permanency outcome for children. Kinship care, when properly assessed and supported, has been shown to provide safe and stable care for children who remain with or return to their families.<sup>5</sup> Twenty-five percent of children in care are living with relatives, and some of the children will not be able to return to their parents.<sup>6</sup> States vary in their use of kinship guardianship, even though federal regulations state that there is a preference for relative placements.

In all these efforts, we must resist—on a national level—the temptation to see any one program or option as the answer for all children or any one child. If maintaining the child at home or reunifying the child with parents is not possible, the remaining options should be pursued on a case-by-case basis, weighing the strengths and risks of each option for a particular child and family.

### ***CWLA's Observations About New Jersey's Child Welfare System***

The CWLA has been engaged in a series of practice improvement projects with the New Jersey Division of Youth and Family Services (DYFS) over the last several years. These activities have ranged from broad-based planning efforts to highly targeted assessment of direct case practice.

DYFS has made a consistent and conscientious effort to evaluate the scope of its programs and to assess the quality of its direct services. It has developed generally sound plans, has sought both community and legislative support for implementation, and has initiated many program improvements.

Despite the ongoing effort, the division has not been fully able to implement its plans and has continued to struggle in achieving a consistent standard of practice in all of its field offices. The practice issues faced by DYFS are similar to those that CWLA sees in other public child welfare systems that are confronted with resource shortages, larger than recommended caseloads, and ongoing staff turnover.

In recent reviews of DYFS case records, CWLA has observed practice weaknesses that are similar to those seen in other jurisdictions and are consistent with inadequate investment of caseworker time in individual cases and lack of internal review and oversight. Concerns have included such issues as:

- Case records may not be well organized, making it difficult to follow the family, and child, progress over time.

<sup>4</sup>The AFCARS Report: Interim FY 2000 estimates as of August 2002.

<sup>5</sup>Benedict, M.I., Zuravin, S., & Stallings, R.Y. (1996). Adult functioning of children who lived in kin versus non-relative family foster homes. *Child Welfare*, 75 (5), 529-549; Berrick, J.D., Barth, R.P., Needell, B. (1994). A comparison of kinship foster homes and foster family homes. Implications for kinship foster care as family preservation. *Children and Youth Services Review*, 16 (1-2), 33-63.

<sup>6</sup>U.S. Children's Bureau. (2002).

- The basis for case decisions frequently is undocumented or lacking clarity.
- The results of investigations of alleged abuse in placement settings are not documented in a location easily identified or accessible.
- Application of policy may be uneven among the various district offices.
- Case narratives and other documents suggest that caseworkers make efforts to obtain services needed by a child. However, the outcomes of the services or utilization patterns are not clearly documented.
- Supervisory oversight of casework activities is not clearly documented.
- Case plans appear to be developed within appropriate time frames. However, they are sometimes missing from case records.

CWLA's experience in New Jersey has revealed a microcosm of many of the serious problems that confront child welfare systems throughout the United States. Inadequate staffing levels coupled with staff turnover, at both the front line and state office levels, have made it difficult to implement what might otherwise be sound plans for reform and improvement. The need to respond to continuing crises has distracted the agency's staff and has worked against orderly and sustained implementation of new practices. The system is most in need of a consistent, long-term commitment to support well-trained, well-supervised staff who are provided with the tools to implement the established standards of sound child welfare practice that DYFS has recognized in its own plans.

#### **Workforce Supports Are a Fundamental Building Block to an Improved Child Welfare System**

We know that the majority of child welfare workers are dedicated with a commitment to helping children and families. We also know that child welfare workers do not have the necessary supports and tools to protect children under their care.

No issue has a greater effect on the capacity of the child welfare system to effectively serve vulnerable children and families than the shortage of a competent and stable workforce and the adherence to national service and caseload standards. As more information on this particular case in New Jersey is revealed, we are likely to learn that high caseloads, inadequate supervision and inadequate training contributed to this tragedy.

Initial information from the New Jersey case indicates that adoption workers are operating with a caseload that is well beyond what is considered good practice. The *CWLA Standards of Excellence for Adoption Services* (2000) recommend a caseload of 10–12 children per social worker preparing children for adoption who are older or who have special needs and supporting the children and families following placement.

The challenges facing the child welfare workforce are not unique in New Jersey and are well documented in a March 2003 U.S. General Accounting Office (GAO) report entitled *HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff* (GAO-03-357). The report found that the child welfare system is seriously understaffed, undertrained and undervalued. The GAO report found that workforce problems limit state's ability to meet the goals established in the newly mandated federal Child and Family Service Reviews (CFSR). The report found that "our analysis of the 27 available CFSR's corroborates caseworkers' experiences showing that staff shortages, high caseloads and worker turnover were factors impeding progress toward the achievement of federal safety and permanency outcomes."<sup>7</sup>

The GAO report also found:

- Workforce issues were cited by one-third of the 27 states reviewed as a barrier to caseworkers maintaining diligent efforts to provide services to families in order to protect children in the home and to prevent removal.
- Another one-third of the states reported that workforce issues meant that caseworkers had difficulty finalizing adoptions with appropriate and timely efforts.
- Twelve states reviewed reported that they had problems with their caseworkers adequately monitoring safety and well-being through frequent visits with children, focusing on case planning, the delivery of services, and reaching goals for the family.
- All 27 states reviewed reported problems providing adequate training and necessary staff development to reach the goals of safety and permanency set forth in the CFSR.<sup>8</sup>

<sup>7</sup> *HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff*. General Accounting Office, March 2003.

<sup>8</sup> Ibid.

Recent evidence from the federal CFSRs and the Program Improvement Plans (PIP) submitted by states to U.S. Department of Health and Human Services (HHS) present a clear picture of how workforce issues impact outcomes for children. The federal government has found through this process, designed to measure the performance of state child welfare systems, that states need additional workforce supports to make the improvements required to meet the needs of children and families. More than half of the states that have submitted a PIP to HHS have addressed the need to improve workforce training, reduce caseloads, improve management, and provide better supervision.

The bottom line is that child welfare work is labor intensive. Workers must be able to engage families through face-to-face contacts, assess the safety and well-being of children, monitor progress, assure that essential services and supports are provided, and assist with problems that may develop. This cannot be done if workers are unable to spend quality time with children, families, and caregivers.

State budget decisions have contributed to the reductions in the child welfare workforce even though caseloads continue to climb. State cutbacks in workforce, whether direct cuts or hiring freezes, as well as reductions in training opportunities, undermine states' ability to guarantee a competent and stable workforce and increases the caseload burden on the remaining child welfare workforce. CWLA recently conducted a survey of state budget decisions. The findings of that survey revealed that:

- Virtually every state has developed spending or reduction plans for their child welfare agencies over the past three years. Forty states reported formal spending reduction plans and two states reported informal plans. The average annual percentage cut is approximately 8%, with a range of 3% to over 20%.
- States have made significant reductions in staffing and services within their own agencies. Nearly half have reduced staff training, tuition/education reimbursement, and other professional development/continuing education.
- Although New Jersey experienced a \$30 million cumulative increase in the budget for the Office of Children's Services in FY 2003 and 2004, including an exemption of front-line child protection workers from the state's hiring freeze and a re-focus on protection and permanency, New Jersey's baseline budget and the cumulative increase were still insufficient to guarantee an adequate workforce and to restrict caseloads to CWLA's recommended standards.

Although the issue of supporting a child welfare workforce defies a simple solution, we do know that providing staff the right supports, including training and a manageable caseload, will result in better outcomes for our most vulnerable children. This can only be accomplished with greater financial investments by both the states and the federal government.

### ***Comprehensive Reform of Nation's Child Welfare System Is Needed to Ensure Children Are Protected***

CWLA recognizes that the child welfare system, as currently constructed, cannot protect all children adequately. Failures occur. They are not limited to any single state. These failures to protect children will continue to occur until we put into place a comprehensive child protection system.

This tragic case in New Jersey does bring into focus the need for a renewed national commitment to support abused and neglected children and underscores the urgency of that reform. We are overdue in implementing an improved and strengthened system. True child welfare reform will hinge on an improved system of shared financing responsibilities among federal, state, local, and tribal governments.

The national child welfare system continues to be in need of:

- A reliable, responsive, and predictable method of guaranteed funding, for a full range of essential services, as well as placement and treatment services.
- A means of maintaining consistent focus on safety, permanency, and well-being as outcomes for children.
- Rigorous standards combined with strong federal and state accountability mechanisms.
- Recruitment and support of adequately trained child welfare professionals, foster and adoptive parents, mentors, and community volunteers.
- Resources that enable parents to provide adequate protection and care for their own children.

### ***Conclusion***

This recent case in New Jersey is another reminder that we need to do better to care for our most vulnerable children. CWLA believes that important and necessary reforms must be enacted to ensure a consistent level of safety and care for all of

America's children. We look forward to working with this subcommittee to develop a comprehensive child welfare reform proposal that meets all the needs of America's most vulnerable children and families and ensures that every child is protected.

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**Statement of Kathleen Dooley Polcha, New York, New York**

As a child welfare professional with 32 years of experience I fully support and encourage the continued focus of ASFA in it's goal of securing a more timely permanent home for children. In the past children remained in "temporary" situations far too long, some children were never returned to family members or adopted and they were discharged from foster care only to become homeless or involved in criminal behavior.

Children need families who are mature, loving, non-judgmental and accepting of the child who may have been the victim of physical/emotional/sexual abuse. These children require services to address those very issues that resulted in their being removed from their families, and to accept the loss of their family and the adoption. Pre-adoptive preparation of both the child and family are vital to a successful placement and post-adoptive services are vital to the support of the children and their adoptive families who will experience problems over the course of time as a very natural expression of the child's feeling secure in the home and sharing (either verbally or through acting out) some of the anger/rage/confusion/hurt over their past in both their birth homes and other foster home placements.

There are many families who adopt children and receive subsidy, these families do not "live off the backs" of the children, rather, use the financial support to adequately care for those children. As in all life situations, there are some people who do a very poor job and misuse the funding, and sadly, abuse the children. Post-adoptive services are a necessary component to support ALL families and children adopted though the Nation's foster care system. Adequate funding is essential.

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Evan B. Donaldson Adoption Institute  
New York, New York, 10005  
*October 31, 2003*

The Honorable Wally Herger  
Chair, Human Resources Subcommittee  
Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Herger:

The Evan B. Donaldson Adoption Institute is submitting the attached commentary that I wrote on the recent New Jersey abuse case and foster care adoption (published in the October 30, 2003 edition of the Los Angeles Times) to help inform the discussion during the Subcommittee on Human Resources' November 6, 2003 hearing on child safety.

The Adoption Institute is one of the pre-eminent policy, research and education organizations in its field; because it is independent of any interest group, the Institute has long been a source of accurate, unbiased information for policymakers, journalists, researchers and professionals. Attached please find a fact sheet about the Institute and its programs. I am the author of "Adoption Nation: How the Adoption Revolution is Transforming America" and have received a Congressional Coalition on Adoption Institute Angel of Adoption award.

I appreciate the opportunity to submit my commentary for the record and distribution at the hearing. If you have any questions, please feel free to contact me at [apertman@adoptioninstitute.org](mailto:apertman@adoptioninstitute.org) or at (617) 332-8944.

Sincerely,

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Adam Pertman  
*Executive Director*

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COMMENTARY

### **Adoption Horrors Blur the Real Story**

By Adam Pertman  
October 30, 2003

Once again, an adoption horror story is in the headlines. And, once again, we are learning less than we think we are.

This time the spotlight is on New Jersey, where Raymond and Vanessa Jackson have been criminally charged with starving the four sons they adopted from the State's foster care system. The boys, now aged 8 to 19, evidently lived on pancake batter, peanut butter and plaster wallboard; the heaviest of them weighed less than 50 pounds when they were removed from their home October 10.

Everyone who listens to talk radio, watches TV news or reads the paper knows these gory details, and also knows a few more things: that the foster-care system in New Jersey, as in many other States, is badly in need of repair; that children in the system generally have special needs; and, as reported in Wednesday's New York Times, that "some State officials and child welfare experts" worry that federal financial incentives meant to help kids get permanent homes instead may be "transforming adoption into an extended form of foster care and a possible peril to children."

Based on available research and personal experience, I think all those observations are accurate—as far as they go. The problem is they do not go far enough or provide sufficient perspective. Even in the worst foster-care systems, good things are happening every day; many children are being reunited with newly healthy biological families, and a growing number of kids are being adopted by loving parents who treat them well. Yes, the boys and girls in public care are there because they suffered from abuse and neglect and they may bear painful physical or psychological scars as a result, but the unambiguous evidence from a multitude of studies is that those who are adopted improve and thrive far more readily than they would have if they had remained in the system.

Similarly, federal financial incentives intended to increase the number of adoptions from foster care—which come in the form of annual payments to the States—evidently have led some child welfare officials to lower their standards for adoptive parents in order to get the money. And state subsidies intended to pay for special-needs children's care have lured some people to adopt in order to get the cash. But there is no indication that horrors such as the one in New Jersey are being repeated with any regularity elsewhere, though nearly every state has received federal incentives and thousands of parents have received state subsidies.

I am not minimizing the tragedy unfolding in New Jersey or defending any system that does less than everything humanly possible to protect the children within it. But we live in a society in which nearly every program that helps children in need receives insufficient resources; in which well-intentioned quick fixes like federal incentives replace (rather than augment) thoughtful, long-term solutions such as post-adoption services; and in which people like the Jacksons can fuel our worst stereotypes about adoptive parents, about the children they raise and about adoption itself.

Alas, we have not learned as much as we think we have. That's certainly true of the "State officials and child welfare experts" who told the New York Times that adoption itself is at risk of becoming a "peril for children." Such thinking stigmatizes millions of Americans for whom adoption is a positive, everyday reality. Worse, suggesting that foster children may be endangered if placed in adoptive homes undermines their prospects for the future and robs them of one of the few treasures they have: hope.

***Adam Pertman is the Executive Director of the Evan B. Donaldson Adoption Institute, and is the author of "Adoption Nation" (Basic Books, 2000).***

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### **Statement of William Haffner-Jones, Ph.D., Middletown, Rhode Island**

#### **BACKGROUND:**

I'm a certified teacher, age 56. I've worked with children one-on-one for 30+ years. I paid for much of my college education working for the Iowa State Auditor's Office. I "grew up" in a domestic relations court, and my father was a prominent attorney. I served in the military at USMA, West Point.

In Colorado, I was the “mark” in an illegal adoption scheme; my foster son was “bait.” I made more than 20 trips to court to extricate him from the system—that’s how I acquired the information on these pages. There’s much more where that came from, if you are interested.

FOCUS:

The following changes need to be made in our foster-care system:

1. Adequate fiscal controls, including “performance audits,” must be instituted, to ensure that money intended to help the children is not passed “under the table” to keep them in the system.
2. “Middle men,” i.e. foster-care agencies, must be eliminated. They take more than two-thirds of every foster-care dollar, and do almost nothing to earn it. Worse yet, they insulate child abusers in the system from investigation and prosecution; and they enable State and municipal departments of social services to distance themselves from abuse when it occurs.
3. Confidentiality Laws must be repealed. The federal government should withhold federal funds from states which do not repeal these antiquated laws. When these laws were passed, the unfortunate histories of children in foster care were disturbing and shocking. Their histories are no longer shocking—they are the stuff of nightly TV drama. Confidentiality Laws no longer protect children; the only people being protected today by Confidentiality Laws are child abusers in the system.
4. The position of Inspector General at D.H.S. must be removed from the political arena. The recent spectacle involving the Rehnquists only gave a free hand to those who would abuse the system and its children.

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Re: CHILD ABUSE IN FOSTER CARE

Why do grotesque cases of child abuse occur within this nation’s foster-care system?

Read how it happens:

Foster care money is approximately 55% federal and 45% state. The average combined expenditure per foster child, per month, is roughly \$3,000. But normal foster parents receive only about one-sixth of this; if medical expenses, therapy, and other special needs of the child are added in, then another 10 to 15 percent of the total amount benefits the child in one way or another. The remainder, roughly \$2,000 per month for each foster child, goes to a private agency (read “middle-man”) for supposedly overseeing the foster parents.

This money is tax free! And all that some of these agencies do to earn that \$2,000 per child, per month, is place a few pieces of paper in a file folder. None of these agencies come anywhere close to providing services that are worth the money being paid.

Federal rules allow that any foster home with four or more children (this includes “natural born” children) can qualify as an “agency,” and receive the larger amount (c. \$3,000 per month for each foster child) instead of the lesser amount (c. \$500 per month) normal foster parents receive.

What happens to all this money? Nobody knows, because “performance audits” or “compliance audits,” designed to ensure that tax dollars are spent for what is intended, are never conducted—not by the U.S. Department of Human Services, not by the General Accounting Office, not by the state auditors, nor by state social services. If audits are done at all, they do nothing but confirm arithmetic on a bunch of financial statements. They are meaningless in terms of ensuring quality care for the children.

So what happens to the money? As a former state auditor, I can tell you that a share of it goes “under the table,” in cash, to caseworkers, supervisors, therapists, and even judges, to look the other way when abuse occurs within the system. This is a systemic problem which needlessly imprisons thousands of children in our foster-care system.

How do these people get away with it, time after time, year after year? Why did it take two weeks for the current scandal to hit the media, even after it was uncovered? Here is the sad truth: The actions of people in the system are hidden by Confidentiality Laws—laws which are supposed to protect the children, but which, in fact, protect no one but child abusers in the system. At best these laws are antiquated; at worst, it is doubtful they should have ever been passed. Easy money, combined with protection from prosecution, actually attracts criminals into our foster-care system.

An old saying goes, "The measure of a society is how it treats its weakest members." There is no one weaker in any society than its homeless children. We don't seem to be "measuring up" right now!

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**Statement of Joyce Hanson, Littleton, Colorado**

I appreciate the opportunity to communicate with you via e-mail. As an adoptive parent, I am truly horrified and deeply hurt over the incidence of brutal child abuse uncovered this past week in New Jersey. Sadly enough, even with the greatest efforts to ensure the safety of our children, this type of incidence will occasionally come to be. The sad truth is that these incidents happen in both adoptive and biological families as well.

As an adoptive parent, I can speak for my husband and myself in stating that in adopting our daughter Jessica, we did so out of wanting to give her the best life and the best chance of a great life that she could have.

We personally adopted Jessica while we were living in South Africa for several years. When we returned to the United States, we obviously brought Jessica (and our son) back with us. We therefore receive no subsidy (nor are we presently qualified according to the law). I would like to speak, though, through our own experiences with Jessica's special needs getting her the adequate help is so very vital! She presently is in private therapy and gets help in her school because of an IEP. If we were receiving subsidy for her, I can honestly say that we would need it very much in order to ensure Jessica a better life. Our daughter has attachment disorder because of being abandoned during the first year of life, has bi-polar disorder as well as fetal alcohol effect (she operates with an IQ of 73). Trying to "make it" as a 13-year-old girl is so difficult for her because of the mistakes of her birth mother, as well as fighting a mental illness.

Jessica is one of many who are like her. I ask that any efforts to "cut back" on subsidy to adoptive families not be continued. On behalf of our children, they desperately need all of the avenues available to them.

Thank you for reading this letter. . . . I pray that such an incident will be extremely isolated so that those of us who are seriously and lovingly trying to do the best for our children can continue to do so.

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**Statement of J. Michael Smith, Home School Legal Defense Association,  
Purcellville, Virginia**

I am the President of the Home School Legal Defense Association (HSLDA), a homeschool advocacy organization with over 80,000 member families. For over 20 years, HSLDA has represented homeschooling families in the courts and in the legislatures. At times, these matters have included the allegation that homeschooling families are committing abuse. Fortunately, these matters are very rarely substantiated. I commend the Committee for undertaking this hearing. However, I do take issue with the testimony of one of the witnesses and its implications.

In her written testimony, Carla Katz, the President of the Communications Workers of America, the union representing social workers in New Jersey, stated that "*Home schooling creates gaps*. Nearly 20% of all abuse cases are reported by schools. When children are outside the school system, extra protections are critical. There are no homeschooling regulations that would require home-schooled children to see anyone from the public education system. There is no cross-referencing with the Department of Education to look for children who are in the 'system' but have not been seen by anyone."

Katz's testimony comes on the heel of a two-part CBS News story called "The Dark Side of Home Schooling" and "Home School Nightmares," and was recently echoed in a similar New York Times editorial calling for additional regulation of homeschools (November 15, 2003). I submit that these calls for additional involvement of homeschooling families with the public schools are in error.

The mistaken idea behind these calls for new regulation is the notion that it is the role of the public school to detect child abuse. While this undoubtedly occurs, and I am thankful it does, the truth is that the detection of child abuse is not the purpose of public education as declared by the courts. The purpose of public education is to promote literacy and self-sufficiency. *Wisconsin v. Yoder* 406 U.S. 205 (1972). It is for this reason that it has been held that a state may not require all students to participate in the public school system. *Pierce v. Society of Sisters* 268 U.S. 510 (1925) (children are not "mere creatures of the state"). It continues to be



the presumption in America that parents act in the best interests of children, even if there is the inherent risk that a very small percentage may abuse children. *Parham v. J.R.*, 442 U.S. 584 (1979).

The situation in New Jersey, at least as it would seem at this early stage, is a tragedy. But to suggest that the reason why these four allegedly abused boys were not identified by authorities is because they were being homeschooled would also be a tragedy, as nothing could be further from the truth. The fact is, this family was visited at least 38 times by government social workers, and as most recently as June. Nine employees of New Jersey Department of Youth and Family Services were fired for missing what should have been obvious. This case is not about homeschooling. If anything, it is about the failure of child protective services.

Unfortunately, statements like that made by President Katz plant a seed in the public's mind that there is a link between home education and child abuse. Consequently, some people might actually believe it and use the anonymous tip procedures available to report homeschool families for abuse and neglect without any factual basis for doing so. Child Protective Services are obligated to follow-up these reports and homeschool families will face unwarranted harassment. This already happens all too frequently to families all across America. More importantly, real abuse will be missed because the system may be clogged with false reports.

Homeschooling meets the educational needs of 2 million children and is the safest environment to teach children to become mature productive adults. It deserves fairer treatment.

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#### **Statement of Bette Hoxie, Old Town, Maine**

I am writing to inform you of how saddened I was to learn of the horrible tragedy that occurred in an adoptive home in NJ. I want to share that I have adopted 8 children from the State of Maine and have fostered over 150. I maintain contact with over 30 former foster children and 4 of the children I fostered were never adopted but consider my home as theirs. I have 5 children still at home. Four are my adopted children and I am raising my grandson who is the child of one of my adult adopted children. All of my children have significant special needs. None of them were adopted because I got a subsidy but the subsidy allowed me to provide for them in a way that would not otherwise have been possible. All of my birth and adopted children continue to be on my holiday gift list and get birthday, new baby gifts, etc. At no time do I think of them as other than my children. The adopted children's babies are my grandchildren just as are those of my birth children. There are no subsidies for that kind of extended family observances. Subsidies stop when the child reaches maturity. Parenting goes on for a lifetime. Please keep this in mind as you advocate for continuation of adoption subsidies and post adoption services.

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#### **Statement of Jamie and Lisa Kanos, New Port Richey, Florida**

We wanted to share that our family is in the process of adopting a 2-year-old little girl who has Down Syndrome. We are adopting her through the State of Florida, where she has been in foster care since birth. We are a middle class family including a self-employed husband, stay-at-home mom, and three kids under the age of 7. It is our desire to give a home to several more hard-to-place children over time. We live very modestly and are homeschooling our children. Our financial situation is adequate and stable, but not affluent. Without subsidies, we may not be able to help more of Florida's special needs children find a forever family. We are equipped emotionally to provide a home to some special kids; subsidies make it possible. It's pretty unrealistic to think that the families who are willing to take on special needs children can also afford to pay for the extra expenses related to their care. We think that if there were no subsidies, there would be a lot of people who would love to help a child, but can't afford to. Please consider this while making your decision regarding the necessity of adoption subsidies. Thank you.

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#### **Statement of Dorothy Kernaghan-Baez, Augusta, Georgia**

Situations similar to the recent case in New Jersey happen because families are investigated and persecuted for such things as breastfeeding an infant or for eating

donuts for breakfast. Legitimate cases will continue to slip through the cracks as long as families are forced to deal with Mickey Mouse allegations that do not meet the statutory definition of child abuse. The problem is not a lack of resources, but a lack of judgment and common sense. If this nonsense is not stopped, children will continue to be harmed, and child abusers will continue to escape punishment.

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**Statement of Jodee Kulp, Brooklyn Park, Minnesota**

In 1987 we adopted a toddler with fetal alcohol spectrum disorder (FASD). The brain damage this child was born with will never go away and she will need a continuum of care throughout her life. She was our foster child for 10 months before we adopted and we knew we were committed and loved her unconditionally. Her mother was deceased, she was a ward of the state. The adoption subsidy our family received has been used to provide her the best opportunities to a successful and productive adulthood. In many cases therapies these children need are not available with insurances so we have used these extra finances to provide nutritional supplements, neurotherapy, vision therapy and neurodevelopment therapy. I left a professional position to provide support and care, we spent five years homeschooling, providing one-to-one teaching. The investment in this child by our family with the help of adoptive subsidy paid for by the citizens of the United States has paid off and we thank each of you. Our daughter qualifies for developmental disability and yet with hard work and belief in herself passed our Minnesota Standards exams in writing, reading and math. She is a public high school senior and will graduate this year. She has one mainstream class "Economics" and is getting a B- with limited supports, she is on the B honor roll with her transitional classes. We believe in her "abilities" and she advocates as an author and speaker for others with FASD as she struggles with her own issues. She will enter her 18th year as a proud American citizen ready to cast her votes. Thank you USA for your support of our family.

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Twin Bridges, Montana 59754  
February 5, 2003

Dear Committee Members,

My name is Christine Lambert. I live in Twin Bridges, Montana with my husband Glenn Brackett. We are the foster/adoptive parents of 4 sibling children, 3 girls and a boy. I would like to tell you about our family and how the state of Montana and the U.S. Government has helped to make our children a success story.

In 1994, my husband and I became foster parents to a sibling group of children from our area. They were ages 3-9 years. We adopted them in 1997.

We receive a monthly subsidy and Medicaid for their medical needs with our adoption. We could **never** have adopted without these two subsidies. We are an example of why, and how successful, these monetary payments are to adoptive and foster parents. It has made it possible for ordinary people, of limited income, to adopt children in desperate need. This was the original intent of the subsidies, and it works.

All of our adopted children had been abused and neglected when they arrived on our doorstep. Our goal was to stop the pervasive loss in their lives and to stop the generations of abuse and neglect. To that end, we are seeing some success. Medicaid benefits pay for the therapy for all our children, two of which are diagnosed with mental illness. One hospital stay 2 years ago saved one daughter's life. Upon hitting puberty, she slipped into mental illness and was bent on destroying herself. She spent a year out of the home in various facilities, all paid for by Medicaid. This daughter is now doing remarkably well because of this help. She is home, back in regular school, and leading a full exciting life. She is in the PATH program in Helena, Montana that is paid for, in part, by Medicaid. Because of risky behavior exhibited by our son, he, too, will enter this program in a few weeks. Our youngest daughter, who has been violent since she began living with us, is finally learning to deal with her rage and the outlook for her recovery, while guarded, at least is now hopeful. We could not afford to treat one of our children's emotional and mental illnesses on our own, let alone 3 out of the four, and wonder what would have happened if we were without Medicaid's mental health benefits.

Our oldest daughter, being in the birth home the longest experienced the most abuse. She struggled for many years with anger and resentment. For the first five years she was with us, whenever we would hug her, she would stiffen her arms at

her side and dig her chin into our shoulders. She had no real friends and lived miserably in the small world of her siblings. Even with our best efforts, she really never had a childhood. But, we insisted she continue therapy, all paid for by Medicaid. About 3 years ago, she made a breakthrough and began to embrace us. Her life changed completely. She allowed herself to love us and to be loved in return. Soon, friends began to call, she was on the honor roll, and she began to have a healthy teen life. Therapy stopped. In January 2001, she applied for the highly competitive Congress-Budenstag Scholarship to study abroad her senior year. She is only one of four Montana students, 300 nationwide, awarded this congressional scholarship in 2001. She studied in Germany as a youth ambassador of the U.S. Government, met and charmed Chancellor Schrader, and learned to speak German fluently. She is now attending college in Kansas and doing well. We are so very proud of her and you should be, too. This is exactly why these subsidies are in place, to make a difference in a child's life.

When cuts are made in any funding, as they are in Montana, we personally feel it. We have to make decisions on what we can afford, not what the children really needed. In the case of mental health this could mean life or death.

We have seen the positive results of your funding adoptions and ask you not to cut any of these programs. Our story is a shining example that adoption subsidies and Medicaid is changing the lives of abused and neglected children.

Sincerely,

Christine Lambert

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National Council For Adoption  
Alexandria, Virginia 22314  
November 6, 2003

Dear Chairman Herger and members of the Subcommittee:

The National Council For Adoption submits this written statement on the subject of your November 6, 2003 hearing examining the "recent failure to protect child safety" in the highly publicized and horrific case of the Jackson family in New Jersey.

According to the Census Bureau report, *Adopted Children and Stepchildren: 2000*, in the census year there were 2.1 million adopted children living with their parents in 1.7 million households, 1.6 million of those children under the age of 18. Sadly, there are abusive adoptive families, just as there are abusive biological families. It is statistically predictable that in a population of 1.7 million households there would be some examples of horrendous abuse.

According to reports, the Jackson children in New Jersey were subjected to inexcusable and hideous treatment. One case of the cruelty these children suffered is one too many. If proven guilty, the Jacksons and the officials who oversaw their adoptions should be punished severely. Unfortunately, child abuse and neglect is a tragic fact of life in some families, whether adoptive or biological.

However, the National Council For Adoption cautions against leaping to dramatic new conclusions about adoption, or adoption policy, based on this aberrant case. Adoption is an extraordinarily successful social institution in promoting child welfare. It is indisputable that children adopted out of foster care fare better than those who languish there. Adopted children score higher than foster children on measures of family adjustment, emotional and developmental functioning, and self-esteem. They are more likely to attend college and less likely to abuse drugs. Adoption into their own family gives children security, well-being, and love that foster care cannot.

One of the chief reasons adoption has been so successful in meeting the needs of children is that law and society have respected adoptive parents as the real parents and treated them essentially the same as biological parents. NCFA cautions against policies that impose requirements on adoptive parents that are not expected of biological parents, such as requiring adoptive parents to provide medical information and submit their child to post-adoption medical examinations. Adoptive parents are as attentive to their children's needs as biological parents. Congress should be very reticent to enact a policy that treats them differently. Treating them differently creates a second-class status for adoptive parenting, which would violate the best interests of the child.

The time to examine adoptive parents' suitability as parents is prior to adoption. There are policies that Congress can promote to facilitate the recruitment and preparation of suitable adoptive parents: (1) flexible funding that allows states to apply

their IV-E dollars to adoptive parent recruitment and preparation programs and to improved training and oversight of case workers; (2) full funding of the Promoting Safe and Stable Families program; and (3) promotion of the Children's Bureau's efforts to develop a national network of adoption advocacy programs to recruit parents from faith-based communities.

Some in the media have used the Jackson case to call into question the highly successful Adoption Incentives program just reauthorized by Congress in the Adoption Promotion Act of 2003. If ever there was a federal program worthy of reauthorization it is this program, which was instrumental in increasing the number of children adopted out of foster care from 31,000 in 1997, to 51,000 in 2002. Thanks in major part to these incentives, an additional 90,000 children have been adopted out of foster care than would otherwise have been. They are now enjoying the benefits of loving, permanent families. We daresay that these children do not object to the Adoption Incentives program.

The National Council For Adoption (NCFA) is a research, education, and advocacy nonprofit whose mission is to promote the well-being of children, birthparents, and adoptive families, by advocating for the positive option of adoption. Since its founding in 1980, NCFA has been a leader in promoting child welfare and adoption policies that promote adoptions of children out of foster care, present adoption as a positive option for women with unplanned pregnancies, reduce obstacles to transracial adoption, make adoption more affordable through the adoption tax credit, and facilitate intercountry adoptions.

Respectfully submitted,

Thomas C. Atwood  
*President*

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**Statement of Steven D. Cohen, New Jersey Child Welfare Panel, Trenton,  
New Jersey**

My name is Steven D. Cohen, and I am submitting this testimony on behalf of the New Jersey Child Welfare Panel, which I chair. As you know, the Panel is an independent body created by the settlement of class-action litigation against New Jersey's child welfare system. That settlement was reached this past June, and the Panel began its work in July. The panel has five members, who collectively bring to it many decades of experience in working with troubled child welfare systems and providing services to children and families. The other four members are Kathleen Feely, Managing Director of the Casey Strategic Consulting Group at the Annie E. Casey Foundation in Baltimore, MD; Robert L. Johnson, M.D., Professor and Chairman of the Department of Pediatrics at the University of Medicine and Dentistry of New Jersey in Newark, NJ; Judith Meltzer, Deputy Director of the Center for the Study of Social Policy in Washington, D.C.; and Beatriz Otero, Executive Director of the Calvary Bilingual Multicultural Learning Center in Washington, D.C.

I would like to begin my testimony by describing the function assigned to the Panel by the settlement agreement. We have two primary tasks. The first of these is to provide technical assistance to New Jersey's child welfare leadership—to make available to them the knowledge gained through many years of work in states across the country, and to connect them with experts who can provide concrete assistance with the reform effort. Our second role involves oversight and monitoring—and, most critically, the responsibility to make judgments about the adequacy of New Jersey's progress towards critical improvement goals. In carrying out these functions, the Panel is responsible to the Federal District Court which authorized the settlement agreement.

Let me explain our oversight responsibilities in greater detail. The lawsuit settlement recognized that, while some actions could be taken immediately to address critical deficiencies in New Jersey's child welfare system, many more would require a far longer time horizon. Changing troubled child welfare systems is a long-term proposition, and all too often we have seen efforts at quick fixes produce only greater cynicism and a sense of defeat as fundamental problems continue. The settlement therefore required New Jersey to develop a comprehensive reform plan, due in January 2004. That plan must address the underlying principles and the specific requirements set out in that agreement. The panel is then charged with the responsibility of approving or disapproving the plan. If it approves, the Panel will also set legally enforceable standards and timeframes for implementation. New Jersey's leaders will be responsible for implementing the plan, and the Panel will issue public reports every six months on the State's progress and on any further actions it

believes necessary. If the Panel disapproves the plan, the parties return to court and go directly to the remedy phase of the lawsuit, and the judge will order the relief he believes necessary.

I said earlier that there were some actions that could begin immediately, without waiting for the larger plan. The most important of these, as most of America knows by now, was an immediate review of the safety of some 12,000 children in out-of-home care. (Some of these reviews were completed even before the Panel was formed. Because some children left care and others entered during the four-month review period, the actual number of reviews conducted was closer to 14,000.) The failure of at least one of these reviews to identify appalling problems that should have been apparent has shocked the nation. Most immediately, it has led to plans, recently approved by the Panel, to re-do approximately 5,000 reviews, and to have this work done by social workers who do not work for State government.

This subcommittee has taken up the question of what changes in public policy and financing would best prevent a terrible case like this from happening again. In framing the Panel's response to that question, let me begin with two reminders.

First, New Jersey is not unique. Tragic lapses in the functioning of child welfare systems have occurred in states and counties across the country. Child welfare and child protection are immensely difficult public functions and they are in need of strengthening throughout the United States.

Second, it did not take this horror to demonstrate that New Jersey's child welfare system has been for a significant period of time very badly broken. That issue was already clear from the Federal lawsuit, and Governor McGreevey acknowledged it in public on the day he announced the lawsuit settlement. The question that has been before the Panel for the last four months—what must New Jersey do to remake this system so it keeps children safe and produces better outcomes for kids and families?—is the same question that we face today. The answers the Panel would give to that question are the same today as they were when we began our work.

Let me mention some of the major elements of those answers, without attempting to be comprehensive. We know that the work to be done in New Jersey must include the development of, at least, the following resources and standards:

- practice standards that identify what workers and supervisors must do to investigate allegations of child abuse and neglect, better assess the needs of children and families, and assist children and families in getting the help they need;
- enough additional staff to substantially lower caseloads, so workers can devote enough time to each child and family to make a difference;
- far more extensive training, which concentrates on building the skills workers need to do their jobs rather than the forms they have to fill out;
- the recruitment of hundreds and perhaps thousands of additional dedicated foster and adoptive parents, drawn primarily from the communities from which most children come into foster care, so those children can remain near home and continue to attend the same school, and so the State can make placement decisions based on a child's need rather than a desperate search to find any available bed;
- much stronger supports for foster and adoptive parents, along with quality post-adoption services;
- enough additional financial resources to create far more services that work with families before they reach the breaking point, so more children can remain at home safely, without the trauma of removal from parents, and at far less cost than that of foster care;
- enough additional financial resources to develop far more treatment services for children in foster care and their families, particularly in mental health and substance abuse;
- far greater involvement of community partners, including neighborhood-based organizations, service providers, and faith communities, because no child welfare system can accomplish its goals on its own; and
- a vastly improved management information system that will allow supervisors and managers to track cases, intervene when there are problems, and track progress against the goals of the reform effort.

Critical as they are, none of these actions will guarantee that a horror like that of the children in Collingswood will never happen again. I am confident, however, that they will make it far less likely—and I am confident that, without this long-term and comprehensive system reform, no other action, however well-intentioned, will have lasting benefits.

Because of these beliefs, I will end my testimony by turning to issues on which I believe that this Subcommittee can make a real difference. Child welfare work is

inherently very difficult. We ask ordinary men and women, working under conditions of great uncertainty, to make decisions with life-and-death consequences. This is something that no action by this subcommittee or any other government entity can change; it is an integral part of the work.

The Subcommittee, can, however, play an important role in solving two other critical problems. First, we must address the unacceptable conditions under which most of America's child welfare workers do their jobs. Across the country, these workers are far too often poorly trained; far too often poorly supervised and supported as they make critical decisions; usually asked to manage caseloads that are far too large for even an expert and highly-organized worker to handle; generally paid too little to attract and retain a high-quality workforce; and all too rarely provided with access to the resources they need to meet the needs of the children and families they are asked to help. In New Jersey, the Federal court settlement will make it possible to begin to remedy these fundamental problems. The Congress has an urgent obligation to ensure that they are addressed nationwide.

Second, we must address the quite understandable demoralization of the child welfare workforce and of many thousands of dedicated foster and adoptive parents. Child welfare professionals go into unknown situations in the middle of the night to investigate allegations of child abuse and neglect, and labor to reunify children safely with their families or to find them loving adoptive homes. Foster and adoptive parents perform the difficult and essential service of raising other people's children—even kids with serious handicaps and very challenging behavior. Both groups deserve the public's respect and support, not the easy condemnation and guilt by association that's all too common when there is a tragedy in foster care. But for too many of these individuals, the dreadful story that led to today's hearing is just the latest installment in a long history of having their contributions ignored by the public most of the time, and being held up to scorn and ridicule when something terrible happens and child welfare makes another brief appearance at the top of the evening news.

Without enough good workers and enough good foster and adoptive parents, you can't have a good child welfare system. It's that simple. I urge this Committee to re-dedicate itself to the task of ensuring that Federal policy adequately funds the State-level activities that recruit, support, and train these individuals, and that Federal oversight appropriately monitors State activities in these critical areas. Thank you.

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#### **Statement of Anna Marie O'Loughlin, Bloomington, New Jersey**

It has been very upsetting for me to read articles like the New York Times 10/30/02 "Cash Incentives for Adoptions Seen as Risk to Some Children" lately where the state is questioned about giving adoption subsidies.

My husband and I adopted four children through the Division of Youth and Family Services since 1991 and they all came with Medicaid and subsidies. All of our children are considered special needs. I would like to share some stories with you about our first child, and then you tell me that subsidies are not important.

My first child was adopted in 1991. He was 2½ when he came to live with us. He was born failure to thrive with multiple handicaps. The largest one being born with drug and alcohol withdrawals. When he was evaluated at the Hackensack Medical Center, the Neurologist stated that he has Chronic Brain Damage.

My husband and I both worked and so the first three years we used his subsidy money toward the expense of a good day care that could meet the needs of a child who had learning disabilities. We had to hold him back from school an extra year because he was not ready to start at the age of five.

He had to have eye surgery before he started first grade so that he was not made fun of his entire life because in order for him to stop his eyes from shaking and focus, he had to tilt his head to his shoulder. The subsidies and Medicaid helped my son to look like other children. It is cute looking at a toddler tilting his head when he looks at you, but not so cute when he is school aged. He would have been tormented. Even with the surgery he will never have 20/20 vision and glasses will only correct 15% of his damaged vision. The first six years he had to have regular visits to an eye specialist. The doctors said that they don't know the long-term effects for him, as their prediction was that he would get worse and might possibly not be able to drive at some point in his life.

Three years ago he contracted perpetual hives. He spent over a year with hives some days from head to toe before he was diagnosed correctly by the fourth doctor we took him to. There were days the school wanted to send him home because it

was painful for them to look at him, not because he couldn't function. Thanks to a good allergist, it is under control.

Our son is ADHD with learning disabilities and will never be able to be age appropriate in his school work. He has very low self esteem in school and always says that he is in the retard classes. He has however been blessed with the ability to play sports well and become a good skier. He is mandated to have regular physicals to play in school and town sports. He must have blood work done to be sure his ADHD medication is working for him. He has had stages of counseling through the years to help with some of the issues that have come up. He has gotten himself in trouble because of some bad choices that he made because of his impulsivity due to his ADHD. A lawyer is very expensive in court.

So if we choose to use his subsidy one month toward paying for a season's pass to ski or to be on the town football team because that is where he gets his self esteem I want to see anyone argue that it wasn't used for a good cause. His subsidies go toward many things including the co-pay for a good family doctor that doesn't take Medicaid as well as his monthly medications.

My son has to live every day knowing that he has handicaps that most people will not accept because they cannot see them. Subsidies are important to families with children who have special needs. It gives them an additional support to do everything possible to make their child a success despite their physical and emotional handicaps.

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#### **Statement of the Honorable Bill Frenzel, Pew Commission on Children in Foster Care**

Mr. Chairman, members of the Subcommittee, I am Bill Frenzel, Chairman of the Pew Commission on Children in Foster Care. I commend you for calling this hearing. The tragic situation in New Jersey is illustrative of problems facing child welfare systems across the country. For this reason, I urge the Subcommittee, and Congress as a whole, to look beyond New Jersey for national approaches to improving outcomes for children who have experienced abuse and neglect.

Americans were sickened by the recent news from New Jersey that four boys adopted from foster care were discovered apparently starving in their parents' home. Subsequent reports that the parents were receiving publicly-funded adoption subsidies led some to question whether unfit adults were adopting children to collect public dollars—and whether states were recklessly promoting adoptions from foster care to earn a federal adoption bonus.

Every year, thousands of families adopt children from foster care and provide them with a loving, permanent home. Clearly, something went horribly wrong in the New Jersey case. But we won't fix the problem by playing the blame game or limiting our questions to adoption policies.

The Pew Commission on Children in Foster Care shares Congress' desire to protect children from abuse and neglect, and place them with safe, permanent families. To do so, we as a nation need to address the overlooked policy question from the New Jersey tragedy: how to ensure that child welfare systems—the public agencies and courts charged with protecting abused and neglected children—have the necessary tools to meet the nation's goals of safety, permanency, and well-being for these children.

The Pew Commission is asking just that question. This blue-ribbon panel is crafting recommendations to improve federal financing of foster care, adoption, and other child welfare services, and to improve court oversight of children in state custody.

Today, decisions by state agencies and judges are heavily influenced by which services the federal government will pay for—and which ones it *won't* pay for. Federal dollars flow easily to pay for foster care for poor children. But they are much less available for services to help families stay safely together, reunify safely after a period in foster care, or establish safe, nurturing adoptive homes. As a result, the average foster child spends three years in foster care, in three different foster homes. Many have longer stays and even more placements. While foster care is necessary to protect some children from serious harm, lengthy stays in multiple foster care placements is a cruel form of protection that has lasting negative effects on children.

The damage to children stemming from these perverse financial incentives is compounded by challenges facing the courts. Judges decide whether to place or keep children in foster care, send them home, or terminate parental rights so that a child is available for adoption. Yet crowded dockets and limited court resources often

allow judges only fleeting inquiries into children's needs and circumstances before they must render a decision. Additionally, most courts lack the management tools to analyze and address sources of delay in their caseloads or track special needs among the children they oversee. The results are continuances and postponements that may needlessly prolong a child's stay in foster care.

Caseworkers, judges, administrators, and advocates have told the Commission that the combination of greater flexibility and greater accountability would strengthen the ability of child welfare agencies and courts to serve children better. Expanding state options for using federal funding would enable courts and agencies to provide children and families with supports and services tailored to their specific needs. For some children in foster care, adoption will be the route to a loving, permanent family. For others, it will be reunification with their birth families or a permanent home with a legal guardian.

Accountability helps ensure that states use their flexibility well. Public agencies and courts should have clear, measurable goals for which they should be held accountable, so that taxpayers can assess how effectively public officials are protecting the children in their care.

As this Subcommittee knows, there are any number of ways to achieve greater flexibility and accountability. The Pew Commission is consulting widely, listening carefully, deliberating thoughtfully. We are particularly grateful for the input we have received from members of this Subcommittee and other members of Congress. We are also fortunate that child welfare legislation has a history of bipartisan support in Congress, and we are determined to give Congress a set of recommendations that continue that tradition.

Let me close by sharing some advice we received two months ago from an extraordinary young man who was adopted from foster care.

Luis is 19 years old. He had been neglected by his birth mother, abused by her boyfriend, then ignored by the state that placed him in foster care. Thankfully, a loving family adopted him as a teenager.

Luis got right to the point. "Everybody deserves a family," he told us. "You have a right to be happy. You have a right not to be hit. You have a right to nourishment. You have a right to love and to be loved."

A parent's love can't be bought with money or ordered by a court. Even a perfect child protective system cannot be guaranteed to be foolproof. But with a better financing structure, stronger court practices, and greater accountability all around, our child welfare system can do a better job of getting children the loving families they deserve. On behalf of the Pew Commission, I look forward to working with the Subcommittee, and Congress as a whole, to reach this goal.

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#### **Statement of Cheryl B. Sokoloski, LaPorte, Colorado**

I understand that you will hold a hearing tomorrow, November 6, about the tragic New Jersey child abuse case. All of us who have adopted special-needs children from the nation's foster care system shudder when these cases arise, both because of the children's suffering and because of the bad light they cast on foster and adoptive families.

In recent years, a couple of very positive developments have occurred in the child welfare system, relative to adoptions out of that system. First is Expedited Permanency Planning, which helps to keep children out of foster care "drift" by mandating that young children be placed in permanent homes quickly. The second is the Promoting Safe and Stable Families program, which seeks to strengthen families so that their children aren't removed and also provides services for families who adopt these emotionally damaged children when efforts with the birth families are exhausted. I sincerely hope that both of these positive directions will be maintained and will not be derailed because of the New Jersey case.

Both of the above programs require a financial investment from the nation, but this is much less costly than treating adult problems later: crime, drug use, welfare.

There is another investment that has also been called into question: the use of subsidies for adoptions from the foster care system. Unfortunately, most of the public is unaware of the extra costs associated with raising special-needs children, whether these are medical costs, costs of extra help with learning, or regular therapy. In our case, we actually turned down a subsidy offered when we adopted an 8-year-old boy who had been severely abused and neglected. Later, after spending thousands of dollars on much-needed therapy, we were sorry we made that decision.



The recent New York Times article called for post-adoption evaluation of families, and I think this is a good idea, provided it can be done legally once an adoption is finalized.

This nation does not question the value of birth families, even though some birth parents are woefully inadequate, even abusive (of course, that's why these children need foster and adoptive parents to begin with!). Most of the foster and special-needs adoptive parents I know are truly extraordinary people, raising children with difficult behaviors who present challenge after challenge to their parents. They have remarkable patience and a huge reserve of unconditional love.

Please consider this majority group when you discuss the tragic case in New Jersey, and don't penalize a system that has shown good improvement of late.

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#### **Statement of Kay Upton, Hodgenville, Kentucky**

We are adoptive parents of 13 years. Two of our adopted children have Sacral Agenesis, affecting their central nervous system. One of those two children also has severe depression, attention deficit, compulsive disorder, and shows signs of fetal alcohol affect. He has never been able to handle public school and has been homeschooled for 10 years (age 16). The sister to this son, has severe depression. The third child we have, was born without a thyroid. This causes her to have severe mood swings. She has in the past tried to harm the other children. We placed these children on our medical insurance which became primary insurance and used most of it on the children. My husband was a factory worker for 27 years and just recently lost his job due to the factory closing. He never made over \$31,000 per year. We took in these children for better or worse and love them very much. The subsidy we get on them has been God sent. Please think about what you are doing when you meet to discuss adoption subsidy. Every time a child is abused, the public cries out and wants revenge. That revenge will ultimately filter down and hurt children. I want to know where these people are when children need homes? Are they adopting? If so let them speak out, if not let them get involved so that they will know what they are crying out about!

